



State of California
**Department of
Pesticide Regulation**

2003-04 Legislative Summary

October 2004
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STATE OF CALIFORNIA

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Governor

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October 2004

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Introduction

The Department of Pesticide Regulation (DPR) is an agency within the California Environmental Protection Agency (Cal/EPA). Cal/EPA was created by Governor Pete Wilson in 1991, to combine environmental programs previously administered by six separate State agencies. The six environmental agencies within Cal/EPA include DPR, the Department of Toxic Substances Control, the State Water Resources Control Board, the Integrated Waste Management Board, the Air Resources Board, and the Office of Environmental Health Hazard Assessment.

DPR is charged with the responsibility to administer California's statewide pesticide regulatory program, the largest of its kind in the nation. Before a pesticide can be possessed, sold, or used in California, the pesticide must be registered by DPR. Prior to registration, DPR's scientific staff review each product to ensure that it meets stringent standards, as prescribed in the laws (Food and Agricultural Code) and regulations (California Code of Regulations) governing pesticides in California. Reviews of data include, but are not limited to the chemical properties of the product, intended use patterns, potential human health effects, and environmental fate of the product. The laws and regulations governing the possession, sale, and use of pesticides are enforced by DPR in cooperation with the Office of the County Agricultural Commissioner (CAC) within each county.

This summary contains brief descriptions of the legislation followed by DPR's Office of Legislation and Regulations during the 2003-04 Legislative Session. DPR monitored over 500 bills during the session.

Urgency bills signed by the Governor took effect immediately upon his signature. Other legislation signed by the Governor in 2003 and 2004 took effect on January 1, 2004 and January 1, 2005, respectively.

For an electronic version of this summary, please refer to DPR's Internet Home Page at the following address: <http://www.cdpr.ca.gov>. You will find this Legislative Summary report under the "Legislation" link. Limited hard copies of this summary are also available through DPR's Office of Legislation and Regulations, 1001 I Street, Sacramento, California 95814.

Acronyms

| | |
|----------|--|
| AB | Assembly Bill |
| ACR | Assembly Concurrent Resolution |
| ALJ | Administrative Law Judge |
| APA | Administrative Procedures Act |
| ARB | Air Resources Board |
| CAC | County Agricultural Commissioner |
| Cal/EPA | California Environmental Protection Agency |
| CCC | California Coastal Commission |
| CCR | California Code of Regulations |
| CDFA | California Department of Food and Agriculture |
| CDHS | California Department of Health Services |
| CEQA | California Environmental Quality Act |
| CFR | Code of Federal Regulations |
| CIWMB | California Integrated Waste Management Board |
| DBW | Department of Boating and Waterways |
| DFG | Department of Fish and Game |
| DIR | Department of Industrial Relations |
| DPR | Department of Pesticide Regulation |
| DTSC | Department of Toxic Substances Control |
| FAC | Food and Agricultural Code |
| FSA | Food Safety Account |
| HSC | Health and Safety Code |
| OAL | Office of Administrative Law |
| OEHHA | Office of Environmental Health Hazard Assessment |
| OES | Office of Emergency Services |
| RWQCB | Regional Water Quality Control Board |
| SB | Senate Bill |
| SPCB | Structural Pest Control Board |
| SWRCB | State Water Resources Control Board |
| TAC | Toxic Air Contaminant |
| U.S. EPA | United States Environmental Protection Agency |
| VOC | Volatile organic compound |

Section I--Bill Subject Index

The Bill Subject Index section of this summary identifies legislative bills, tracked by DPR during the 2003-04 legislative session, containing similar subject matter.

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Section II – 2003-04 Chaptered Legislation: Summary

The following information summarizes the content of legislative bills which were signed by Governor Wilson or Governor Schwarzenegger, and chaptered by the Secretary of State during the 2003-04 legislative session, which impact, or have potential to impact California's pesticide regulatory program.

AB 79 (Dutra) Written reports: preparation.

09/09/2004 - Chaptered by Secretary of State - Chapter No. 409, Statutes of 2004

Existing law requires various written reports to be prepared and submitted by state and local agencies to the Legislature or the Governor. This bill would, until January 1, 2008, provide that a public agency, as defined, may, but is not required to prepare or submit any written report to the Legislature, the Governor, or any state legislative or executive body unless any one of specified conditions is met or the report is required to be prepared and submitted pursuant to this bill. This bill would provide that its provision requiring that specified reports by the California Environmental Protection Agency be prepared and submitted become operative only if AB 2701 is enacted and becomes operative. This bill contains other related provisions.

AB 385 (Nakano) State employees: salary or wages: itemized statement.

09/22/2003 – Chaptered by the Secretary of State - Chapter 433, Statutes of 2003

Existing law requires each state agency at the time of each payment of salary or wages, whether by direct deposit by electronic fund transfer or otherwise, to furnish each employee an itemized statement in writing showing all deductions made from his or her salary or wages. This bill would require each state agency to furnish each employee, at his or her discretion, the itemized statement in writing or electronically. This bill contains other related provisions.

AB 866 (Pavley) Water Quality

9/22/2003 Chaptered by Secretary of State - Chapter No. 433, Statutes of 2003

The Watershed, Clean Beaches, and Water Quality Act provides for a program of grants to public agencies and nonprofit organizations for projects designed to improve water quality at public beaches, improve water quality monitoring and sewer capability, protect water quality by reducing runoff pollution, and control nonpoint source water pollution. This bill would require the board in developing criteria for evaluating projects considered for grants under the agricultural water quality grant program to also consult with the program advisory review board established to advise the University of California on pilot demonstration projects to implement biologically integrated farming systems. This bill contains other related provisions and other existing laws.

AB 897 (Jackson) Water quality.

10/9/2003 Chaptered by Secretary of State - Chapter No. 683, Statutes of 2003

Existing law prohibits any person from initiating a discharge or making a material change in a discharge of waste after filing a waste discharge report and prior to the issuance of waste discharge requirements or, under certain circumstances, the expiration of 120 days after compliance with certain requirements relating to the filing of that report, whichever is earlier. Under the act, any person discharging hazardous waste in violation of these provisions is guilty of a misdemeanor and may be liable civilly in an

amount that does not exceed \$5,000 for each day in which the violation occurs. This bill would change that time period to 140 days and would make the requirement relating to the expiration of that time period applicable only to the discharge of waste that does not create, or threaten to create, a condition of pollution or nuisance. Because, under certain circumstances, a violation of this requirement would be a crime, the bill would impose a state-mandated local program by creating a new crime. The bill would require any moneys collected from the imposition of penalties for a violation of this requirement to be deposited in the Waste Discharge Permit Fund, for expenditure by the state board, upon appropriation by the Legislature, to assist the regional boards, and certain other public agencies, in carrying out certain duties relating to water quality. This bill contains other related provisions and other existing laws.

AB 1248 (Aghazarian) Waste discharge requirements.

10/9/2003 Chaptered by Secretary of State - Chapter No. 690, Statutes of 2003

Existing law, the Porter-Cologne Water Quality Control Act, requires the State Water Resources Control Board and the California regional water quality control boards to carry out various duties relating to water quality, including the issuance of waste discharge requirements, water reclamation requirements, and related orders. This bill would require the state board or the regional board, as appropriate, to provide notice and a period of at least 30 days for public comment prior to adopting waste discharge requirements, water reclamation requirements, or those related orders.

AB 1360 (Steinberg) Environmental quality: environmental indicators.

10/3/2003 Chaptered by Secretary of State - Chapter No. 664, Statutes of 2003

Existing law requires the Secretary for Environmental Protection, on or before January 1, 2002, to convene a Working Group on Environmental Justice to assist the California Environmental Protection Agency (Cal/EPA) in developing, on or before July 1, 2002, an agencywide strategy for identifying and addressing gaps in existing programs, policies, or activities that may impede the achievement of environmental justice. This bill would require the Office of Environmental Health Hazard Assessment (OEHHA), on behalf of the office of the Secretary for Environmental Protection, beginning on July 1, 2004, and, to the extent that funds are appropriated by the Legislature, to develop and maintain a system of environmental indicators that meets specified objectives. The bill would define the term "environmental indicator." The bill would require the Secretary of the Cal/EPA to periodically assess the ability of the environmental indicators system to meet each of those objectives and the ability of the system to support the development and implementation of the agencywide environmental justice strategy. The bill would require the Secretary of the Cal/EPA to submit a report on those environmental indicators to the Governor and the Legislature on or before January 1, 2006, and by January 1 every two years thereafter. This bill contains other related provisions.

AB 1405 (Wolk) California Watershed Protection and Restoration Act.

10/9/2003 Chaptered by Secretary of State - Chapter No. 693, Statutes of 2003

Existing law provides for a watershed protection program, and provides funds to assist in implementing watershed plans to reduce flooding, control erosion, improve water quality, and improve aquatic and terrestrial species habitats, to restore natural systems of groundwater recharge, native vegetation, waterflows, and riparian zones, to restore the beneficial uses of waters of the state in watersheds, and to provide matching funds for federal grant programs. This bill would enact the California Watershed Protection and Restoration Act. The act would declare that the Legislature encourages the California Environmental Protection Agency and the Resources Agency to provide assistance and grants under the act to those who choose to participate in watershed restoration and enhancement. The act would make certain declarations regarding voluntary, local, and collaborative watershed partnerships. The bill would require state agencies that adopt guidelines for use by local watershed partnerships to provide specified mechanisms and would authorize state agencies with jurisdiction over watershed planning and protection to provide technical assistance to watershed management partnerships, to the extent that funds are available.

AB 1454 (Canciamilla) Vector control.

05/14/2004 - Chaptered by Secretary of State – Chapter No. 41, Statutes of 2004

Existing law provides that the State Department of Health Services shall maintain a program of vector biology and control including provision of consultation, assistance, and training to local vector control agencies. Existing law provides that the department may provide necessary and proper assistance to counties, cities, cities and counties, and mosquito abatement, vector control and pest abatement districts. This bill would require state and local agencies, and would encourage federal agencies, responding to an outbreak of West Nile virus or other mosquito-borne diseases with an abatement and surveillance program to contract with a local mosquito and vector control agency that is a party to the cooperative agreement with the department, or to consult directly with the department. This bill contains other related provisions and other existing laws.

AB 1548 (Pavley) Office of Education on the Environment.

10/3/2003 Chaptered by Secretary of State –
Chapter No. 665, Statutes of 2003

Existing law establishes the Office of Integrated Environmental Education within the Integrated Waste Management Board, and requires the office to develop and implement a unified education strategy on the environment for elementary and secondary schools. This bill would repeal those provisions and, instead, establish the Office of Education and the Environment with similar duties. The bill would require the Office of Education and the Environment to report to both the Secretary for Environmental Protection and to the board. This bill contains other related provisions and other existing laws.

AB 1724 (Committee on Agriculture) Pesticides

9/12/2003 Chaptered by Secretary of State –
Chapter No. 366, Statutes of 2003

Existing law authorizes the Structural Pest Control Board, or county agricultural commissioners when acting as representatives of the Director of Pesticide Regulation to suspend a structural pest control operator's license or impose specified monetary civil penalties for violations of the laws relating to structural pest control. This bill would include violations of specified provisions relating to structural fumigation in the above provision. This bill contains other related provisions and other existing laws.

AB 1725 (Matthews) Structural pest control: violations.

09/10/2004 - Chaptered by Secretary of State - Chapter No. 443, Statutes of 2004

Existing law provides for licensing and regulation of structural pest control operators and related licensees by the Structural Pest Control Board. Existing law also sets forth certain responsibilities of the Director of Pesticide Regulation and county agricultural commissioners relative to inspections and pesticide use by licensees of the board. Existing law provides for suspensions of business for up to 3 days and for administrative fines of up to \$1,000 for violations of laws governing structural pest control licensees, with fines deposited into the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Existing law requires the licensee to be given notice of the proposed action, and authorizes the licensee to file an appeal that would stay the commissioner's order until 20 days after the Disciplinary Review Committee has ruled on the appeal. This bill would instead provide for administrative fines of up to \$5,000 for any violation determined by the board or a county agricultural commissioner to be a serious violation, as defined by regulation. The bill would provide that, upon appeal, an order would be stayed until 30 days after the Disciplinary Review Committee has ruled on the appeal. This bill contains other related provisions and other existing laws.

AB 1982 (Wolk) Wildlife management areas: mosquito abatement

09/16/2004 - Chaptered by Secretary of State –
Chapter No. 553, Statutes of 2004

Existing law provides for the formation of mosquito abatement districts, and prescribes the powers, functions, and duties of those districts, as specified. The existing Fish and Game Code authorizes the Department of Fish and Game to take specified actions to protect, restore, rehabilitate, and improve fish and wildlife habitat. This bill would require a mosquito abatement district whose boundaries include one or more wildlife management areas to periodically, or at least semiannually, notify the department of those areas that exceed locally established mosquito population thresholds and associated mosquito control costs. The bill would require the department to take specified actions with regard to the control and abatement of mosquitos in those wildlife management areas. The bill would require those mosquito abatement districts, in consultation with the department, to develop standardized monitoring procedures for

mosquito surveillance, as prescribed, for each managed wetland habitat at each wildlife management area, and to provide an annual report to the department of pesticide use in those habitats and areas, as specified. The bill would repeal these provisions on January 1, 2010. By imposing new duties on local agencies with regard to mosquito control and abatement practices in wildlife habitat areas, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

AB 2529 (Kehoe) Water quality: marine managed areas.

09/23/2004 – Chaptered by Secretary of State –
Chapter No. 714, Statutes of 2004

Existing law, the Marine Managed Areas Improvement Act, establishes a program pursuant to which various geographic areas are classified as marine managed areas for the purposes of regulating activities within, and otherwise protecting, those areas. This bill would establish a program for marine managed areas pursuant to which the State Water Resources Control Board would award grants, upon the appropriation of funds for that purpose, to local public agencies and nonprofit organizations to restore and protect the water quality and environment of marine managed areas. The bill would require the state board to appoint a marine managed areas water quality task force for the purpose of recommending projects to fund in connection with that program.

AB 2701 (Runner) Environmental protection: reports.

09/21/2004 - Chaptered by Secretary of State - Chapter No. 644, Statutes of 2004

Existing law requires the California Environmental Protection Agency, and its boards, departments, and offices to prepare and submit to the Governor and the Legislature various reports containing specified information on the implementation and effectiveness of certain programs, policies, and projects to ensure the protection of natural resources in the state. This bill would require the California Integrated Waste Management Board, in consultation with state agencies that are affected by the changes made by the bill, to develop and implement guidelines, by January 1, 2005, to provide and produce reports and other documentation, including guidance documents, fact sheets, and other publications and written materials, in the most efficient and environmentally sustainable manner possible. The bill would require the guidelines to include the distribution of reports and other documentation by electronic means and compact discs, information on posting reports and other documentation on state agency Web sites, and techniques for the production of reports and other documentation that will reduce and encourage the use of recycled goods, materials, and supplies, specified cost reduction options, and the distribution of a reasonable number of printed reports to ensure public access. This bill contains other related provisions and other existing laws.

**AB 2814 (Simitian) Natural resources:
California Environmental Quality Act.**

09/14/2004 - Chaptered by Secretary of State –
Chapter No. 522, Statutes of 2004

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and to certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA provides some exemptions from its requirements for specified projects. This bill would, instead, provide that failure to name potential parties, other than those real parties in interest, is not grounds for dismissal, as specified. This bill contains other existing laws.

AB 3025 (Agriculture) Agriculture

09/10/04 – Chaptered by Secretary of State
Chapter No. 460, Statutes of 2004

This bill would make technical and substantive changes to conform to federal law and to create consistency in state law. These changes will affect the activities of the California Department of Food and Agriculture (CDFA) dealing with county agricultural commissioners and sealers, equine medication monitoring, dairy animals and public hearing requirements on native desert plants.

SB 111 (Knight) State reporting requirements.

07/23/2004 - Chaptered by Secretary of State –
Chapter No. 193, Statutes of 2004

Existing law requires various state agencies to prepare and submit reports to the Legislature and Governor on various topics throughout the year. This bill would delete various reporting requirements. This bill contains other related provisions and other existing laws.

SB 352 (Escutia) Schoolsites: sources of pollution.

10/3/2003 Chaptered by Secretary of State –
Chapter No. 668, Statutes of 2003

Existing law sets forth various requirements regarding the siting, structural integrity, safety, and fitness-for-occupancy of school buildings, including, but not limited to, a prohibition of the approval by the governing board of a school district of the acquisition of a schoolsite by a school district, unless prescribed conditions relating to possible exposure to hazardous substances are satisfied, and a prohibition on the approval of a related environmental impact report or negative declaration. This bill would, in addition,

prohibit the approval by the governing board of a school district of a schoolsite that is within 500 feet from the edge of the closest traffic lane of a freeway or other busy traffic corridor, unless prescribed conditions are met and would make conforming and other technical, nonsubstantive changes. This bill contains other related provisions and other existing laws.

SB 391(Florez) Pesticide drift exposure.

09/30/2004 - Chaptered by Secretary of State –
Chapter No. 913, Statutes of 2004

Under existing law, the Department of Pesticide Regulation is charged with enforcing pesticide laws and regulations, violation of which is subject to criminal and civil sanctions and penalties. Existing law establishes the Department of Pesticide Regulation Fund. This bill would, in addition to other penalties, make any person found to have violated provisions relating to pesticides, liable for certain costs related to a resulting illness or injury. The bill would provide that the exposure of each person to pesticide shall constitute a separate violation of related provisions, thereby imposing a state-mandated local program by changing the disposition of a crime. This bill contains other related provisions and other existing laws.

SB 600 (Committee on Judiciary) Maintenance of the codes.

7/14/2003 Chaptered by Secretary of State –
Chapter No. 62, Statutes of 2003

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes. This bill would make technical, nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

SB 642 (Hollingsworth) Pest Control

9/17/2003 Chaptered by Secretary of State –
Chapter No. 414, Statutes of 2003

Existing law provides for the control and eradication of pests by the use of various methods, including establishment of a quarantine area, and defines various terms with respect to these provisions. Existing law allows the Secretary of Food and Agriculture to enter into cooperative agreements with private and specified state and federal entities for various purposes that promote and enhance agriculture. Existing law provides that grant awards shall be made by the Department of Food and Agriculture, as specified, and that the procedures, forms, and guidelines for grant programs are exempt from procedural requirements applied to the adoption of rules and regulations. This bill would require, if the secretary expends funds or awards grants for the study of protocols for crops to meet standards for transport out of a quarantine area, that primary consideration be given to crops that are most at risk from the imposition of a quarantine and for which protocols do not currently exist, as long as the application otherwise

meets reasonable scientific standards. The bill would authorize the department to consult with individuals or representatives of the agriculture industry, and academic or scientific individuals, or organizations to establish criteria and assist in the recommendation of any expenditure of funds or the award of grants. This bill would also define the terms "crop" and "forage," as specified.

SB 694 (Committee on Natural Resources and Wildlife) Public resources.

08/16/2004 – Chaptered by Secretary of State –
Chapter No. 224, Statutes of 2004

Existing law requires the Governor to appoint 9 members to the State Park Commission or the Recreation Commission with terms expiring at various dates, all prior to January 15, 1971. This bill would delete that provision. This bill contains other related provisions and other existing laws.

SB 700 (Florez) Air quality: emissions: stationary sources: agricultural operations.

9/22/2003 Chaptered by Secretary of State –
Chapter No. 479, Statutes of 2003

Existing law authorizes the board of every air quality management district and air pollution control district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. Existing law exempts vehicles and certain types of equipment from those permit requirements. This bill would eliminate that exemption for any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals. To the extent that the bill would increase the number of permits that a district board, electing to establish a permit system prior to January 1, 2004, would be required to issue, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

SB 923 (Sher) Water waivers

10/11/2003 Chaptered by Secretary of State –
Chapter No. 801, Statutes of 2003

Existing law, the Porter-Cologne Water Quality Control Act, provides that a regional board may waive certain waste discharge requirements for specific discharges or specific types of discharges if the waiver is not against the public interest. The act provides that the waivers are subject to conditions. This bill, instead, would authorize the state board or a regional board to waive those waste discharge requirements if certain requirements are met. The bill would require the conditions of the waivers to include, with certain exceptions, the performance of individual, group, or watershed-based monitoring duties. The bill would authorize the state board or a regional board to include as a condition of the waiver the payment of an annual fee. The bill would require the funds generated by the payment of the fee to be deposited in the Water Discharge

Permit Fund for expenditure, upon appropriation, by the state board or the appropriate regional board to establish and implement the waiver program. The bill would require the state board or regional board to provide notice regarding the adoption of a waiver.

SB 1049 (Committee on Budget and Fiscal Review) Resources.

10/09/2003 - Chaptered by Secretary of State –
Chapter No. 741, Statutes of 2003

This bill was a budget trailer bill to provide for new and increased fees in the area of natural resources and environmental protection to provide support for various departments. For the Department of Pesticide Regulation (DPR), this bill: (1) provided authority for the Director to set licensing, examination, and registration fees by regulations to cover the costs of those activities and shall be considered as emergency regulations until amended by the director; (2) provided the Director with the authority to set the mill assessment rate of 21 mills per dollar of sales; and (3) create a program to conduct outreach and education for pesticide safety.

SB 1051(Committee on Local Government)

Vectorborne Disease Account.

05/07/2004 - Chaptered by Secretary of State –
Chapter No. 38, Statutes of 2004

Under existing law, the State Department of Health Services is required to certify that imported tires are mosquito free, to charge fees for the certification and examination of vector control technicians, and to deposit these fees in the Mosquitoborne Disease Surveillance Account. Statutory authorization for the Mosquitoborne Disease Surveillance Account was terminated on January 1, 2003. This bill would change existing law references to the Mosquitoborne Disease Surveillance Account to the Vectorborne Disease Account, established by the bill for deposit of those funds, and would make conforming changes. This bill contains other related provisions.

SB 1107 (Committee on Budget and Fiscal Review) Resources.

08/16/2004 - Chaptered by Secretary of State –
Chapter No. 230, Statutes of 2004

This bill, in part, shifted \$2.935 million of the DPR Fund local assistance appropriation for restricted materials use permits (RMUP) program activities and workload associated with Assembly Bill (AB) 3765 (Chapter 308, Statutes of 1978) and the pesticide dealer licensing program from Budget Act to non-Budget Act.

SB 1319 (Burton) Natural resources: ocean protection.

09/23/2004 - Chaptered by Secretary of State –
Chapter No. 719, Statutes of 2004

Existing law generally regulates activities relating to coastal and ocean resources. This bill would create the California Ocean Protection Act, which would include various legislative findings and declarations related to coastal and ocean resources. The bill would define terms. This bill contains other related provisions.

Section III - Major Chaptered Bills: Text

Several bills chaptered during the 2003-04 legislative session will have direct impact on California's pesticide regulatory program. The complete chaptered text of those bills are included on the following pages.

AB 1360 CHAPTERED
BILL TEXT

CHAPTER 664

FILED WITH SECRETARY OF STATE OCTOBER 3, 2003

APPROVED BY GOVERNOR OCTOBER 2, 2003

PASSED THE ASSEMBLY SEPTEMBER 11, 2003

PASSED THE SENATE SEPTEMBER 10, 2003

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE SEPTEMBER 3, 2003

AMENDED IN SENATE JULY 17, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

AMENDED IN ASSEMBLY APRIL 3, 2003

INTRODUCED BY Assembly Member Steinberg

FEBRUARY 21, 2003

An act to add Chapter 4 (commencing with Section 71080) to Part 2 of Division 34 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, Steinberg. Environmental quality: environmental indicators.

Existing law requires the Secretary for Environmental Protection, on or before January 1, 2002, to convene a Working Group on Environmental Justice to assist the California Environmental Protection Agency (Cal/EPA) in developing, on or before July 1, 2002, an agencywide strategy for identifying and addressing gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

This bill would require the Office of Environmental Health Hazard Assessment (OEHHA), on behalf of the office of the Secretary for Environmental Protection, beginning on July 1, 2004, and, to the extent that funds are appropriated by the Legislature, to develop and maintain a system of environmental indicators that meets specified objectives. The bill would define the term "environmental indicator." The bill would require the Secretary of the Cal/EPA to periodically assess the ability of the environmental indicators system to meet each of those objectives and the ability of the system to support the development and implementation of the agencywide environmental justice strategy. The bill would require the Secretary of the Cal/EPA to submit a report on those environmental indicators to the Governor and the Legislature on or before January 1, 2006, and by January 1 every two years thereafter.

The bill would require the OEHHA to be the lead agency for developing new environmental indicators, for modifying, deleting, and updating existing environmental

indicators, and for developing and maintaining an environmental indicator database. The bill would require the OEHHA to consult with other state agencies, as specified and would authorize OEHHA to hold public meetings to receive comments. The bill would also require the OEHHA to lead an intra-agency workgroup consisting of representatives from each board, department, and office within the Cal/EPA. The OEHHA would be required to consult with that intra-agency workgroup regarding various activities.

The bill would state the Legislature's intent that the Secretary for Environmental Protection, the Secretary of the Resources Agency, and the Director of the Department of Health Services in conjunction with other specified entities, use environmental indicators, where applicable, in the development of the budget proposals for 2005-06 and future budget years, and require budget change proposals to indicate how the proposals would affect specified environmental indicators.

The bill would require that a budget change proposal submitted to the Legislature by a board, department, or office within the California Environmental Protection Agency or the Resources Agency describe how the proposal would affect specified environmental indicators. The bill would require any board, department, or office within Cal/EPA to explain how their bond programs relate to or affect environmental indicators.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4 (commencing with Section 71080) is added to Part 2 of Division 34 of the Public Resources Code, to read:

CHAPTER 4. ENVIRONMENTAL PROTECTION INDICATORS FOR CALIFORNIA

71080. The Legislature finds and declares the following:

(a) Traditionally, many of California's environmental programs have assessed their performance using measures of activity, including, for example, the number of permits granted or regulatory standards adopted. Addressing the complex environmental challenges of the 21st century will require new approaches that rely on better information from objective and scientifically based environmental indicators. Over the years, substantial efforts have been devoted toward this end, yet historically there have been very few meaningful, objective measures with which to determine the environmental impacts of these efforts.

(b) The California Environmental Protection Agency has made a commitment to move away from measures of activity, and instead focus on measurable environmental results to judge program performance. To support this commitment, the California Environmental Protection Agency established the Environmental Protection Indicators for California (EPIC) Project in 2000, and charged EPIC with developing and maintaining a comprehensive set of environmental indicators, which are scientific measurements of environmental conditions and trends. To ensure that the development of indicators was based on sound science, the California Environmental

Protection Agency designated its Office of Environmental Health Hazard Assessment to lead the effort. The California Environmental Protection Agency, working in partnership with the Resources Agency and in cooperation with the Department of Health Services, released a report containing the initial set of 84 environmental indicators in April 2002.

(c) Objective and scientifically based environmental indicators improve our understanding of the environment and how human activities and other factors can influence it. The indicators establish a scientific basis for evaluating the effectiveness of environmental programs and identifying the need for specific actions to improve environmental conditions throughout the state and the disproportionate impact on low-income communities and communities of color. Decisions to create, modify, or eliminate California Environmental Protection Agency policies and programs need to be driven by information reflected by environmental indicators; and, to the extent feasible, budget decisions should include a reference as to how the proposed change is intended to impact a relevant environmental indicator.

(d) To ensure the credibility of objective and scientifically based environmental indicators, a qualified scientific body with expertise in environmental and public health protection should provide input into the selection and development of the indicators.

(e) To ensure the relevance of the environmental indicators, input should be sought from a broad range of stakeholders.

(f) It is the intent of the Legislature that the Secretary for Environmental Protection, the Secretary of the Resources Agency, and the Director of the Department of Health Services in conjunction with the boards, departments, and offices in their respective agencies, use environmental indicators, where applicable, in the development of the budget proposals for the 2005-06 fiscal year and each fiscal year thereafter.

71081. (a) Beginning on July 1, 2004, to the extent that funds are appropriated by the Legislature for this purpose, the office, on behalf of the office of the secretary, shall develop and maintain a system of environmental indicators. The office shall develop and maintain the system to meet all of the following objectives for using environmental indicators:

(1) Provide policymakers and the public with an improved understanding of the condition of the state's environment and the effects of the release of contaminants on public health and the environment.

(2) Provide policymakers and the public with information to evaluate the effectiveness of the agency's programs in improving environmental quality and protecting public health throughout the state, including environmental quality and public health in low-income communities and communities of color.

(3) Assist in the development and modification of agency programs, plans, and policies as environmental conditions change over time.

(4) Assist the agency in making budget decisions that address the most significant environmental concerns.

(b) The following definitions apply to this section:

(1) "Agency" means the California Environmental Protection Agency.

(2) "Environmental indicator" means an objective and scientifically based measure that represents information on environmental conditions, releases of contaminants into the environment, or the effects of those releases.

(3) "Office" means the Office of Environmental Health Hazard Assessment.

(4) "Secretary" means the Secretary for Environmental Protection.

(c) The secretary shall submit a report on the environmental indicators developed pursuant to this chapter to the Governor and the Legislature on or before January 1, 2006, and by January 1 every two years thereafter. The report shall include a discussion as to the manner in which the environmental indicators are being used by the agency to meet the objectives set forth in subdivision (a). The office shall make the report available to the public on its Web site.

The office shall include on its Web site any additional relevant information in support of those environmental indicators and shall update that information posted on the Web site as new information becomes available.

(d) The office shall be the lead agency for developing new environmental indicators, for modifying, deleting, and updating existing environmental indicators, and for developing and maintaining an environmental indicator database. The office shall lead an intra-agency workgroup, consisting of representatives from each of the boards, departments, and offices within the agency. The office shall consult with the intra-agency workgroup in developing and maintaining the environmental indicators, program planning, policy formulation, and other decisionmaking processes, and in drafting the report required under subdivision (c).

(e) In developing and maintaining the environmental indicators, the office shall consult with the Resources Agency, the State Department of Health Services, and other state agencies as appropriate.

(f) The office may utilize information for indicators that is not collected by other boards and departments within the agency and may identify and establish new indicators.

(h) In implementing this section, the office may hold public meetings to receive comments from a broad range of stakeholders, including, but not limited to, local government, the regulated community, nongovernmental organizations, and other groups with an interest in environmental issues.

(i) The office shall consult with the scientific review panel established pursuant to Section 50.8 of the Labor Code for the purpose of establishing, updating, and evaluating environmental indicators.

(j) The secretary shall periodically assess the ability of the environmental indicators system to meet each of the objectives cited in subdivision (a) and the ability of the system to support the development and implementation of the agencywide environmental justice strategy pursuant to Section 71113.

71082. (a) As appropriate, a budget change proposal submitted to the Legislature by a board, department, or office within the California Environmental Protection Agency or the Resources Agency shall describe how the proposal would affect any applicable "Type I" environmental indicator. To the extent that a budget change proposal relates to a "Type II" or "Type III" environmental indicator, the budget change proposal shall

reference what data collection and further analysis is needed before the environmental status or trend that is the subject of the indicator may be presented.

(b) A board, department, or office within the California Environmental Protection Agency shall explain how its bond programs relate to or affect environmental indicators.

SB 391 CHAPTERED
BILL TEXT

CHAPTER 913
FILED WITH SECRETARY OF STATE SEPTEMBER 30, 2004
APPROVED BY GOVERNOR SEPTEMBER 29, 2004
PASSED THE SENATE AUGUST 28, 2004
PASSED THE ASSEMBLY AUGUST 28, 2004
AMENDED IN ASSEMBLY AUGUST 26, 2004
AMENDED IN ASSEMBLY AUGUST 23, 2004
AMENDED IN ASSEMBLY AUGUST 17, 2004
AMENDED IN ASSEMBLY JULY 23, 2004
AMENDED IN ASSEMBLY JUNE 29, 2004
AMENDED IN ASSEMBLY MAY 24, 2004
AMENDED IN SENATE JANUARY 5, 2004

INTRODUCED BY Senators Florez and Escutia

FEBRUARY 20, 2003

An act to add Sections 12996.5, 12997.5, and 12997.7 to the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, Florez. Pesticide drift exposure.

Under existing law, the Department of Pesticide Regulation is charged with enforcing pesticide laws and regulations, violation of which is subject to criminal and civil sanctions and penalties. Existing law establishes the Department of Pesticide Regulation Fund. Existing law establishes reporting requirements relating to pesticide poisoning, and requires the Office of Environmental Health Hazard Assessment to develop and implement a program to alert physicians and others regarding symptoms, diagnosis, and treatment.

This bill would, in addition to other penalties, make any person found to have violated provisions relating to pesticides, liable for certain costs related to a resulting illness or injury. The bill would provide that the exposure of each person to pesticide shall constitute a separate violation of related provisions, thereby imposing a state-mandated local program by changing the disposition of a crime.

This bill would require the California Environmental Protection Agency to establish minimum standard protocols for the purposes of amending area plans and would require the certified uniform program agency to amend the area plan for emergency response accordingly. By requiring local agencies to comply with these requirements, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates

Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12996.5 is added to the Food and Agricultural Code, to read:

12996.5. (a) For the purposes of this chapter:

- (1) "Office" means the Office of Environmental Health Hazard Assessment.
 - (2) "Department" means the Department of Pesticide Regulation.
 - (3) "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code within a jurisdiction.
 - (4) "Agency" means the California Environmental Protection Agency.
 - (5) "Nonoccupational" means that the person exposed to the pesticide was not at the time of the exposure performing work as an employee.
 - (6) "Acute" means a medical condition that involves a sudden onset of symptoms due to an illness, injury, or other medical problem that requires prompt medical attention and that has a limited duration.
 - (7) "Uncompensated medical care" means the cost of care not covered by any other program, including, but not limited to copayments for medical insurance, Healthy Families Program, or Medi-Cal. Reimbursed medical costs shall not exceed 125 percent of the Medi-Cal reimbursement rates.
- (b) The exposure of each person to a pesticide resulting from the violation of Section 12972 or 12973, or any regulation adopted pursuant to Section 12976, 12981, or 14005, that causes acute illnesses or injury, shall constitute a separate violation of the statute or regulation.

SEC. 2. Section 12997.5 is added to the Food and Agricultural Code, to read:

12997.5. (a) In addition to any penalties paid in connection with an enforcement action taken pursuant to Sections 12996, 12997, 12999, and 12999.5, any person who is found in violation of any provision of this division related to pesticides or any regulation related to pesticides adopted pursuant to this division that results in illness or injury requiring emergency medical transport or immediate medical treatment of any individual in a nonoccupational setting from any pesticide used in the production of an agricultural commodity, shall be liable to the individual harmed or to the medical provider for the immediate costs of uncompensated medical care from acute injuries and illnesses of the exposed individual.

(b) Any order issued in connection with a finding of a violation as described in subdivision (a) shall include the obligation to reimburse medical costs from acute illnesses and injuries of any individual requiring immediate medical treatment as a consequence of this violation to the injured individuals or their medical providers.

(c) Any person found in violation of this section shall submit to the director within 30 days of the final determination of liability, a written plan on how they will pay individuals and medical providers for the emergency medical transport and the immediate medical costs from acute medical injuries and illnesses of all individuals requiring immediate medical treatment as a consequence of the violation. A person alleged to have violated subdivision (a) may voluntarily submit a written plan pursuant to this section prior to the determination of liability. The contents of the voluntary plan shall not be held against the person in any action to determine whether the person violated those provisions.

(d) Any violation of this section shall be subject to the criminal and civil sanctions and penalties set forth in this division.

(e) Payment of emergency medical costs pursuant to this section shall not preclude an affected person from filing a civil action for injuries, illnesses, or costs related to the incident. Any damage award associated with a civil action related to the incident shall be reduced by the amount the plaintiff received from this section.

(f) Payment of emergency medical costs pursuant to this section shall not be held against the person in any action to determine whether the person violated those provisions.

(g) For any person who provides for the immediate reimbursement of medical costs for acute medical illnesses and injuries prior to a final determination by the department, the director or agricultural commissioner may reduce, by not more than 50 percent, the fines imposed pursuant to Section 12996.5. This reduction shall not limit the responsible party's financial obligation under this section. The department or agricultural commissioner shall attempt to complete the determination within 45 days of the incident.

SEC. 3. Section 12997.7 is added to the Food and Agricultural Code, to read:

12997.7. (a) The agency, in consultation with the department, the office, county agricultural commissioners, local health officers, CUPAs, and affected community members, shall by August 31, 2005, establish minimum standard protocols for the purposes of amending area plans.

(b) The protocols shall include, but not be limited to, all of the following:

(1) Protocols for requesting and providing immediate access to pesticide-specific information necessary to assist emergency medical services personnel in identifying pesticides that may be causing a pesticide drift exposure incident and appropriate treatments.

(2) Protocols to delineate specific agency responsibilities and the process for responding to calls, notifying residents, and coordinating evacuation, if needed.

(3) Protocols to establish emergency shelter procedures and locations to be used in the event evacuation is needed.

(4) Protocols to access services in all languages known to be spoken in the affected area in accordance with Section 11135 of the Government Code.

(5) Protocols to ensure access to health care within 24 hours of the exposure and up to a week after the exposure.

(6) Protocols to notify medical providers regarding eligibility for reimbursement pursuant to Section 12997.5.

(c) The CUPA or administering agency shall amend the area plan for emergency response, pursuant to subdivision (c) of Section 25503, to specifically address pesticide drift exposure and to incorporate provisions of the protocols of subdivision (b).

(d) Upon the next scheduled update of the area plan, all CUPAs shall have incorporated a pesticide drift component into their area plan.

(e) The minimum standard protocols developed under subdivision (a) shall be in accordance with the California Environmental Protection Agency's guidelines.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SB 319: Governors Signing Message:

To the Members of the California State Senate:

I am signing Senate Bill 391 because it ensures the immediate medical treatment and timely payment for individuals injured by the improper application of agricultural pesticides. It also squarely places the financial burden to pay for acute medical costs on those businesses that create the harm. SB 391 authorizes the Department of Pesticide Regulation (DPR) and County Agricultural Commissioners to require a violator of the pesticide laws to reimburse the medical costs of individuals who suffer acute injuries and illness caused by agricultural pesticide use violations. I am concerned that the liability provisions in SB 391 may be viewed as overly broad and may lead to the inability for some entities to obtain insurance. These provisions need to be addressed in follow up legislation to remediate these unintended consequences.

Sincerely,

Arnold Schwarzenegger

BILL NUMBER: SB 700 CHAPTERED

BILL TEXT

CHAPTER 479

FILED WITH SECRETARY OF STATE SEPTEMBER 22, 2003

APPROVED BY GOVERNOR SEPTEMBER 22, 2003

PASSED THE SENATE SEPTEMBER 11, 2003

PASSED THE ASSEMBLY SEPTEMBER 10, 2003

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY SEPTEMBER 4, 2003

AMENDED IN ASSEMBLY AUGUST 21, 2003

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 24, 2003

INTRODUCED BY Senators Florez and Sher

FEBRUARY 21, 2003

An act to amend Section 42310 of, and to add Sections 39011.5, 39023.3, 40724, 40724.5, 40724.6, 40724.7, 40731, 42301.16, 42301.17, 42301.18, and 44559.9 to, the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 700, Florez. Air quality: emissions: stationary sources: agricultural operations.

(1) Existing law authorizes the board of every air quality management district and air pollution control district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. Existing law exempts vehicles and certain types of equipment from those permit requirements.

This bill would eliminate that exemption for any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals. To the extent that the bill would increase the number of permits that a district board, electing to establish a permit system prior to January 1, 2004, would be required to issue, the bill would impose a state-mandated local program.

(2) Existing law defines various terms governing the construction of air pollution control laws in the state, and authorizes the state board to revise those definitions to conform with federal law.

This bill would define the terms "agricultural source of air pollution" and "fugitive emissions," and would prohibit, notwithstanding the existing authority, the state board from revising those definitions.

(3) The existing federal Clean Air Act requires districts to adopt local programs for issuing operating permits to major stationary sources of air pollutants. The existing act defines a stationary source as any building, structure, facility, or installation that emits or may emit any air pollutant.

This bill would require each district that is designated a serious federal nonattainment area for an applicable ambient air quality standard for particulate matter as of January 1, 2004, to adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation requiring best available control measures (BACM) and best available retrofit control technology (BARCT) for agricultural practices at agricultural sources of air pollution to reduce air pollutants from those sources for which that technology is applicable for agricultural practices by the earliest feasible date, but not later than January 1, 2006, and would require each district subject to those requirements to comply with a schedule for public hearing, adoption, and implementation of the final rule.

The bill would require each district that is designated a moderate federal nonattainment area or an applicable ambient air quality standard for particulate matter as of January 1, 2004, to adopt and implement control measures necessary to reduce emissions from agricultural practices by the earliest feasible date, but no later than January 1, 2007, unless the district determines that those sources do not significantly cause or contribute to a violation of state or federal standards.

The bill would require, by January 1, 2005, the state board to review all available scientific information and develop a definition of a "large confined animal facility."

The bill would require, by July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, to adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility as that term is defined by the state board to obtain a permit to reduce, to the extent feasible, emissions of air contaminants from the facility. The bill would require the district to perform an assessment of the impacts of the rule or regulation prior to its adoption. The bill would authorize a permitholder to appeal any district determination or decision related to that permit.

The bill would require a district that is designated as being in attainment for the federal ambient air quality standard for ozone as of January 1, 2004, to adopt the same rule or regulation required of nonattainment districts, by July 1, 2006, unless the district board makes a determination that large confined animal facilities will not contribute to a violation of any state or federal ambient air quality standard. The bill would provide the rule or regulation is not required to be submitted for inclusion into the state implementation plan.

The bill would require the California Air Pollution Control Officers Association, in consultation with the state board and other interested parties, by January 1, 2005, to develop a clearinghouse of available control measures and strategies for agricultural sources of air pollution and emissions of air contaminants from agriculture operations.

The additional duties for districts under the bill would impose a state-mandated local program.

(4) Existing law establishes the Capital Access Loan Program for Small Businesses, administered by the California Pollution Control Financing Authority, which provides loans through participating financial institutions to entities authorized to conduct business in the state and whose primary business location is in the state.

This bill would require the authority to expand the program to include outreach to financial institutions that service agricultural interests in the state for the purposes of funding air pollution control measures.

(5) Under existing law, any person who violates a rule, regulation, permit, or order of a district is guilty of a misdemeanor. Because this bill would increase the number of people who are subject to that provision, it would expand the scope of a crime, thereby imposing a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Agricultural operations necessary for growing crops or raising animals are a significant source of directly emitted particulates, and precursors of ozone and fine particulate matter. These emissions have a significant adverse effect on the ability of areas of the state, including, but not limited to, the San Joaquin Valley, to achieve health-based state and federal ambient air quality standards.

(2) Since 1999, the agriculture industry has reduced emissions of oxides of nitrogen (NOx) by more than 2000 tons per year, emissions of particulate matter of 10 microns in diameter (PM 10) by more than 500 tons per year, and emissions of volatile organic compounds (VOCs) from agricultural chemicals by more than 20 percent. According to the state board, however, agricultural sources of air pollution still contribute twenty-six percent of the smog-forming emissions in the San Joaquin Valley.

(3) In the San Joaquin Valley, a large portion of the sources of particulate emissions are areawide sources whose emissions are directly related to growth in population and the resulting vehicle miles traveled. According to the State Air Resources Board, however, agricultural sources of air pollution account for over fifty percent of the directly emitted particulate air pollution generated in the valley during the fall, amounting to over 170 tons per day of emissions.

(4) All parties living or operating a business in an area that has been classified as being a nonattainment area with respect to the attainment of federal or state ambient air quality standards share the responsibility of reducing emissions from air pollutants.

(5) The federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) prohibits the state from adopting emission standards or limitations less stringent than those established under the federal act, including limitations on emissions from agricultural sources.

(6) Division 26 (commencing with Section 39000) of the Health and Safety Code establishes numerous policies and programs to reduce air pollutants for the protection of public health.

(7) The purpose of the act adding this section is to establish a new set of programs at the state and regional levels to reduce air emissions from agricultural sources in order to protect public health and the environment.

(b) It is therefore the intent of the Legislature to require the State Air Resources Board and air quality management districts and air pollution control districts in the state to regulate stationary, mobile, and area sources of agricultural air pollution.

SEC. 2. Section 39011.5 is added to the Health and Safety Code, to read:

39011.5. (a) "Agricultural source of air pollution" or "agricultural source" means a source of air pollution or a group of sources used in the production of crops, or the raising of fowl or animals located on contiguous property under common ownership or control that meets any of the following criteria:

(1) Is a confined animal facility, including, but not limited to, any structure, building, installation, barn, corral, coop, feed storage area, milking parlor, or system for the collection, storage, treatment, and distribution of liquid and solid manure, if domesticated animals, including, but not limited to, cattle, calves, horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks are corralled, penned, or otherwise caused to remain in restricted areas for commercial agricultural purposes and feeding is by means other than grazing.

(2) Is an internal combustion engine used in the production of crops or the raising of fowl or animals, including, but not limited to, an engine subject to Article 1.5 (commencing with Section 41750) of Chapter 3 of Part 4 except an engine that is used to propel implements of husbandry, as that term is defined in Section 36000 of the Vehicle Code, as that section existed on January 1, 2003. Notwithstanding subdivision (b) of Section 39601, the state board may not revise this definition for the purposes of this section.

(3) Is a Title V source, as that term is defined in Section 39053.5, or is a source that is otherwise subject to regulation by a district pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(b) Any district rule or regulation affecting stationary sources on agricultural operations adopted on or before January 1, 2004, is applicable to an agriculture source.

(c) Nothing in this section limits the authority of a district to regulate a source, including, but not limited to, a stationary source that is an agricultural source, over which it otherwise has jurisdiction pursuant to this division, or pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act that were in effect on or before January 1, 2003, or to exempt an agricultural source from any requirement otherwise applicable under Sections 40724 or 42301.16, based upon a finding by the district in a public hearing that the aggregate emissions from that source do not exceed a de minimus level of more than one ton of particulate matter, nitrogen oxides or volatile organic compounds per year.

SEC. 3. Section 39023.3 is added to the Health and Safety Code, to read:

39023.3. "Fugitive emissions" mean those emissions that cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Notwithstanding subdivision (b) of Section 39601, the state board may not revise this definition for the purposes of this section.

SEC. 4. Section 40724 is added to the Health and Safety Code, to read:

40724. (a) Each district that is designated as a serious federal nonattainment area for an applicable ambient air quality standard for particulate matter as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation requiring best available control measures (BACM) for sources for which those measures are applicable and best available retrofit control technology (BARCT) to reduce air pollutants from sources for which that technology is applicable for agricultural practices, including, but not limited to, tilling, discing, cultivation, and raising of animals, and for fugitive emissions from those agricultural practices a manner similar to other source categories by the earliest feasible date, but not later than January 1, 2006. The rule or regulation shall also include BACM and BARCT to reduce precursor emissions in a manner commensurate to other source categories that the district show cause or contribute to a violation of an ambient air quality standard. Each district that is subject to this subdivision shall comply with the following schedule with respect to the rule or regulation imposing BACM and BARCT:

(1) On or before September 1, 2004, notice and hold at least one public workshop for the purpose of accepting public testimony on the proposed rule or regulation.

(2) On or before July 1, 2005, adopt the final rule or regulation at a noticed public hearing.

(3) On or before January 1, 2006, commence implementation of the rule or regulation.

(b) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(c) In adopting a rule or regulation pursuant to this section, a district shall do all of the following:

(1) Ensure the size and duration of use of an internal combustion engine subject to BARCT pursuant to this section is commensurate to the size and duration of use of internal combustion engines subject to regulation by a district or the state board regulated at other stationary sources.

(2) Ensure that BARCT established pursuant to this section for an internal combustion engine is similar to BARCT for other stationary source engines subject to regulation by a district or the state board.

(3) Ensure that the cost-effectiveness of BARCT for an internal combustion engine subject to this section is similar to the cost-effectiveness of BARCT for other internal combustion engines subject to regulation by a district or the state board.

(4) Compare the cost-effectiveness of BARCT for an internal combustion engine subject to this section to the list of available and proposed control measures prepared pursuant to Section 40922.

(5) Adopt control measures pursuant to this section in order of their cost-effectiveness, unless a district determines that a different order of adoption is necessary due to the enforceability, public acceptability, or technological feasibility of a given control measure, or to expeditiously attain or maintain a national or state ambient air quality standard.

(6) Except as otherwise provided under this section, ensure that any rule or regulation adopted pursuant to this section complies with all applicable requirements of this division, including, but not limited to, any applicable requirements established pursuant to Sections 40703, 40727, 40728.5, and 40920.6.

(7) Hold at least one public meeting that is conducted at a time and location that the district determines is convenient to the public at which the district reviews the comparison prepared pursuant to paragraph (4).

(d) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect the adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

SEC. 5. Section 40724.5 is added to the Health and Safety Code, to read:

40724.5. (a) By the earliest feasible date, but no later than January 1, 2007, each district that is designated a moderate federal nonattainment area for an applicable ambient air quality standard for particulate matter as of January 1, 2004, and that is not subject to the requirements of Section 40724, shall adopt and implement control measures necessary to reduce emissions from agricultural practices, including, but not limited to, tilling, discing, cultivation, and raising of animals, and from fugitive emissions in a manner similar to other source categories from those activities by the earliest feasible date. Control measures adopted and implemented pursuant to this section shall also be implemented by the district to reduce precursor emissions in a manner commensurate to other source categories that the district show cause or contribute to a violation of an ambient air quality standard.

(b) A district is not required to adopt and implement control measures pursuant to this section if it determines in a public hearing that agricultural practices do not significantly cause or contribute to a violation of state or federal standards.

(c) In adopting a rule or regulation pursuant to this section, a district shall do all of the following:

(1) Ensure the size and duration of use of an internal combustion engine subject to BARCT pursuant to this section is commensurate to the size and duration of use of internal combustion engines subject to regulation by a district or the state board regulated at other stationary sources.

(2) Ensure that BARCT established pursuant to this section for an internal combustion engine is similar to BARCT for other stationary source engines subject to regulation by a district or the state board.

(3) Ensure that the cost-effectiveness of BARCT for an internal combustion engine subject to this section is similar to the cost-effectiveness of BARCT for other internal combustion engines subject to regulation by a district or the state board.

(4) Compare the cost-effectiveness of BARCT for an internal combustion engine subject to this section to the list of available and proposed control measures prepared pursuant to Section 40922.

(5) Adopt control measures pursuant to this section in order of their cost-effectiveness, unless a district determines that a different order of adoption is necessary due to the enforceability, public acceptability, or technological feasibility of a given control measure, or to expeditiously attain or maintain a national or state ambient air quality standard.

(6) Except as otherwise provided under this section, ensure that any rule or regulation adopted pursuant to this section complies with all applicable requirements of this division, including, but not limited to, any applicable requirements established pursuant to Sections 40703, 40727, 40728.5, and 40920.6.

(7) Hold at least one public meeting that is conducted at a time and location that the district determines is convenient to the public at which the district reviews the comparison prepared pursuant to paragraph (4).

(d) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect the adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

(e) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

SEC. 6. Section 40724.6 is added to the Health and Safety Code, to read:

40724.6. (a) On or before July 1, 2005, the state board shall review all available scientific information, including, but not limited to, emissions factors for confined animal facilities, and the effect of those facilities on air quality in the basin and other relevant scientific information, and develop a definition for the source category of a "large confined animal facility" for the purposes of this section. In developing that definition, the state board shall consider the emissions of air contaminants from those sources as they may affect the attainment and maintenance of ambient air quality standards.

(b) Not later than July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility, as defined by the state board pursuant to subdivision (a), to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

(c) A district may require a permit for a large confined animal facility with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district for any air contaminant, including, but not limited to, fugitive emissions in a manner similar to other source categories, if prior to imposing that requirement the district makes both of the following determinations in a public hearing:

(1) A permit is necessary to impose or enforce reductions in emissions of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.

(2) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(d) The rule or regulation adopted pursuant to subdivision (b) shall do all of the following:

(1) Require the owner or operator of each large confined animal facility to submit an application for a permit within six months from the date the rule or regulation is adopted by the district that includes both of the following:

(A) The information that the district determines is necessary to prepare an emissions inventory of all regulated air pollutants emitted from the operation, including, but not limited to, precursor and fugitive emissions, using emission factors approved by the state board in a public hearing.

(B) An emissions mitigation plan that demonstrates that the facility will use reasonably available control technology in moderate and serious nonattainment areas, and best available retrofit control technology in severe and extreme nonattainment areas, to reduce emissions of pollutants that contribute to the nonattainment of any ambient air quality standard, and that are within the district's regulatory authority.

(2) Require the district to act upon an application for permit submitted pursuant to paragraph (1) within six months of a completed application, as determined by the district.

(3) Require the owner or operator to implement the plan contained in the permit approved by the district, and shall establish a reasonable period, of not more than three years, after which each permit shall be reviewed by the district and updated to reflect changes in the operation or the feasibility of mitigation measures. The updates required by this paragraph are not required to be submitted for inclusion into the state implementation plan.

(4) Establish a reasonable compliance schedule for facilities to implement control measures within one year of the date on which the permit is approved by the district, and shall provide for 30 days public notice and comment on any draft permit.

(d) Prior to adopting a rule or regulation pursuant to subdivision (b), a district shall, to the extent data are available, perform an assessment of the impacts of the rule or

regulation. The district shall consider the impacts of the rule or regulation in a public hearing, and make a good faith effort to minimize any adverse impacts. The assessment shall include all of the following:

- (1) The category of sources affected, including, but not limited to, the approximate number of affected sources, and the size of those sources.
- (2) The nature and quantity of emissions from the category, and the significance of those emissions in adversely affecting public health and the environment and in causing or contributing to the violation of a state or federal ambient air quality standard.
- (3) The emission reduction potential.
- (4) The impact on employment in, and the economy of, the region affected.
- (5) The range of probable costs to affected sources and businesses.
- (6) The availability and cost-effectiveness of alternatives.
- (7) The technical and practical feasibility.
- (8) Any additional information on impacts that is submitted to the district board for consideration.

(e) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(f) In adopting a rule or regulation pursuant to this section, a district shall comply with all applicable requirements of this division, including, but not limited to, the requirements established pursuant to Section 40703, 40727, and 40728.5.

(g) A permitholder may appeal any district determination or decision required by this section pursuant to Section 42302.1, in addition to any other applicable remedy provided by law.

(h) Nothing in this section authorizes a district to adopt a rule or regulation that is duplicative of a rule or regulation adopted pursuant to Sections 40724 and 40724.5.

(i) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

SEC. 7. Section 40724.7 is added to the Health and Safety Code, to read:

40724.7. (a) A district that is designated as being in attainment for the federal ambient air standard for ozone shall adopt a rule or regulation as described in Section 40724.6 shall fulfill both of the following conditions:

- (1) The regulation shall be adopted not later than July 1, 2006, unless a district board makes a determination in a public hearing, based on substantial scientific evidence in the record, that large confined animal facilities will not contribute to a violation of any

state or federal ambient air quality standard.

(2) The regulation may not be submitted for inclusion in the state implementation plan.

(b) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(c) In adopting a rule or regulation pursuant to this section, a district shall comply with all applicable requirements of this division, including, but not limited to, the requirements established pursuant to Section 40703, 40727, and 40728.5.

(d) Nothing in this section authorizes a district to adopt a rule or regulation that is duplicative of a rule or regulation adopted pursuant to Section 40724.

(e) The rule or regulation adopted by a district pursuant to this section is not required to be submitted for inclusion into the state implementation plan.

SEC. 8. Section 40731 is added to the Health and Safety Code, to read:

40731. In order to assist in the development of the BACM, RACM, and BARCT measures specified in Sections 40724, 40724.5, and 40724.6, and to reduce or eliminate emissions of regulated air pollutants and their precursors, the California Air Pollution Control Officers Association, in consultation with the state board and other interested parties, shall, not later than January 1, 2005, develop a clearinghouse of available control measures and strategies for agricultural sources of air pollution and emissions from agricultural operations, including, but not limited to, the following sources:

(a) Operations that create fugitive dust emissions, including, but not limited to, discing, tilling, material handling and storage, and travel on unpaved roads.

(b) Confined animal facilities, including, but not limited to, any structure, building, installation, barn, corral, coop, feed storage area, or milking parlor, including, but not limited to, a system for the collection, storage, treatment, and distribution of liquid or solid manure from domestic animals, including, but not limited to, cattle, calves, horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks, if those animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial agricultural purposes, and feeding is by means other than grazing.

(c) Internal combustion engines used in the production of crops or the raising of animals or fowl, except an engine that is used to propel an implement of husbandry, as that term is defined in Section 36000 of the Vehicle Code, as that section existed on January 1, 2003.

(d) Other equipment, operations, or activities associated with the growing of crops or the raising of fowl or animals, that emit, or cause to be emitted, any regulated air pollutant, or any precursor to any regulated air pollutant.

SEC. 9. Section 42301.16 is added to the Health and Safety Code, to read:

42301.16. (a) In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean Air Act is required by district regulation to obtain a permit in a manner that is consistent with the federal requirements.

(b) Except as provided in subdivision (c), a district shall require an agricultural source of air pollution to obtain a permit unless it makes all of the following findings in a public hearing:

- (1) The source is subject to a permit requirement pursuant to Section 40724.6.
- (2) A permit is not necessary to impose or enforce reductions of commissions of air pollutants that the district show cause or contribute to the violation of state or federal ambient air quality standard.
- (3) The requirement for the source or category of sources to obtain a permit would impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(c) Prior to requiring a permit for an agricultural source of air pollution with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district, for any air contaminant, but excluding fugitive dust, a district shall, in a public hearing, make all of the following findings:

- (1) The source is not subject to a permit requirement pursuant to Section 40724.6.
- (2) A permit is necessary to impose or enforce reductions of emission of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.
- (3) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

SEC. 10. Section 42301.17 is added to the Health and Safety Code, to read:

42301.17. (a) A district may adopt by regulation a program under which the district does not require a permit to be obtained by an agricultural source of air pollution that the district may otherwise require to obtain a permit if the owner or operator of the source has taken the following actions to reduce emissions from the source:

(1) Removed all internal combustion engines used in the production of crops or the raising of fowl or animals, except an engine that is used to propel implements of husbandry, at the source and replaced them with engines that meet or exceed the most stringent standards adopted by the state board and the United States Environmental Protection Agency for new internal combustion engines.

(2) Reduced or mitigated emissions from all agricultural activities, including, but not limited to, tilling, discing, cultivation, the raising of livestock and fowl, and similar activities, to a level that the district determines does not cause, or contribute to, a violation of a state or federal ambient air standard, toxic air contaminant, or other air emission limitation.

(3) Reduced or mitigated all emissions from any farm equipment, underground petroleum fuel tanks, or other similar equipment used in agricultural activities to a level that the district determines does not cause or contribute to a violation of a state or federal ambient air standard, toxic air contaminant, or other air emission limitation.

(4) Complied with any other conditions required by state or federal law or district rule or regulation for the source.

(b) Subdivision (a) does not apply to those permits required to be issued pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.).

SEC. 11. Section 42301.18 is added to the Health and Safety Code, to read:

42301.18. (a) Any agricultural source that existed prior to January 1, 2004, that becomes subject to a permit requirement pursuant to a district rule or regulation that was adopted prior to that date shall be permitted as an existing source and not as a new source.

(b) Any agricultural source that is an existing source pursuant to subdivision (a) shall be permitted by the district based upon its maximum potential to emit air contaminants, to the extent that level can be determined, as of January 1, 2004.

(c) A district may not require an agricultural source to obtain emissions offsets for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable, and enforceable emission reductions.

SEC. 12. Section 42310 of the Health and Safety Code is amended to read:

42310. (a) A permit shall not be required for any of the following:

(1) Any vehicle.

(2) Any structure designed for and used exclusively as a dwelling for not more than four families.

(3) An incinerator used exclusively in connection with a structure described in subdivision (b).

(4) Barbecue equipment that is not used for commercial purposes.

(5) (A) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

(B) As used in this subdivision, maintenance does not include operation.

(b) Nothing in this section shall affect any requirements imposed on a district or a source of air pollution, including, but not limited to, an agricultural source, pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

SEC. 13. Section 44559.9 is added to the Health and Safety Code, to read:

44559.9. The authority shall expand the Capital Access Loan Program established by this article to include outreach to financial institutions that service agricultural interests in the state for the purpose of funding air pollution control measures.

SEC. 14. The provisions of the act adding this section are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain other costs that may be incurred by a local agency or school district because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

BILL NUMBER: SB 1049

CHAPTERED

BILL TEXT

CHAPTER 741

FILED WITH SECRETARY OF STATE OCTOBER 9, 2003

APPROVED BY GOVERNOR OCTOBER 8, 2003

PASSED THE SENATE SEPTEMBER 11, 2003

PASSED THE ASSEMBLY SEPTEMBER 10, 2003

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY SEPTEMBER 5, 2003

INTRODUCED BY Committee on Budget and Fiscal Review

FEBRUARY 27, 2003

An act to amend Sections 1103 and 1103.2 of the Civil Code, to amend Sections 714, 2536, 2540, 3031, 3031.2, 4654, 6596, 6596.1, 7145, 7147, 7149, 7149.05, 7149.2, 7149.8, 7360, 7360.1, 7361, 7363, 7380, 7852, 7881, 7921, 8032, 8033, 8033.2, 8033.5, 8034, 8035, 8036, 13005, 15101, and 15103 of, to amend the heading of Article 4 (commencing with Section 7360) of Chapter 2 of Part 2 of Division 6 of, to add Section 8039 to, and to repeal Sections 7149.1, 7149.15, 7362, 7852.21, 7852.3, and 7921.5 of, the Fish and Game Code, and to amend Sections 11502.5, 11703, 11704, 11707, 11903, 11904, 12021, 12103, 12104, 12105, 12201, 12202, 12252, 12401, 12404, 12818, 12841, 12841.1, and 14152 of, to add Section 12841.2 to, to repeal Sections 11515 and 11516 of, and to repeal and add Section 12812 of, the Food and Agricultural Code, to amend Section 8589.4 of, and to add Section 8589.5 to, the Government Code, to amend Sections 12975.7 and 12975.8 of, and to add and repeal Section 10089.45 of, the Insurance Code, to amend Section 25534 of, to add Section 25806 to, and to add Article 3.5 (commencing with Section 4138) to Chapter 1 of Part 2 of Division 4 of, the Public Resources Code, to amend Sections 1025.5, 1052, 1228.3, 1845, 2850, 5006, 5107, 6307, 6308, 6309, 13160.1, and 79505.5 of, to add Sections 1031, 2865, and 2868 to, to repeal Sections 1228.8 and 6308.5 of, and to repeal and add Chapter 8 (commencing with Section 1525) of Part 2 of Division 2 of, the Water Code, and to amend Section 1 of Chapter 240 of the Statutes of 2003 relating to resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1049, Committee on Budget and Fiscal Review. Resources.

(Note: Provisions of SB 1049, in part, made changes to the Food and Agricultural Code and are described below.)

Sec. (8) Existing law authorizes the Director of Pesticide Regulation to adopt regulations and establish minimum requirements in connection with licenses and certificates pertaining to pesticides. Existing law also specifies various fees for and in connection with various licenses, and certificates, including examinations for the same, renewals, late fees, and other charges in connection thereto.

This bill would instead provide the director with authority to set these fees by regulation, as prescribed. The bill would provide that the fees collected would be deposited in the Department of Pesticide Regulation Fund, and would be available for expenditure by the department, upon appropriation, for the purposes of carrying out various specified pesticide licensing and certification programs. This bill would also make conforming changes to provisions of law in connection with the fees and charges to be set by regulation.

Until July 1, 2004, existing law requires every registrant of a pesticide product to pay the Director of Pesticide Regulation an assessment of 17.5 mills per dollar of sales for all sales by that person of registered pesticides for use in this state. Existing law provides that effective July 1, 2004, and thereafter, the mill assessment rate would be reduced to 9 mills per dollar of sales, for all sales of pesticide for use in this state. Existing law also provides that the director may lower the mill assessment rate, when in addition to other criteria, the director determines that revenues collected would result in a reserve amount greater than \$2.5 million.

This bill would instead provide that from January 1, 2003, through December 31, 2003, the rate would be 17.5 mills. The bill would further provide that for all transactions on or after January 1, 2004, the rate would be set by regulations adopted by the director, but not to exceed 21 mills per dollar of sales. The bill would further provide that if the regulations are not adopted before a payment of the assessment is due, payment would be made at the rate of 17.5 mills and, upon adoption of the regulations, payment of any additional amount would be due and payable. This bill would delete the authority of the director to lower the mill assessment rate, when in addition to other criteria, the director determines that revenues collected would result in a reserve amount greater than \$2.5 million. This bill would provide that the regulations pertaining to the mill assessment rate are deemed emergency regulations, as specified.

Existing law also provides that until July 1, 2004, an additional 3/4 mill assessment may be collected, if necessary, to fund certain duties of the Department of Food and Agriculture, as specified. Existing law also provides for the deposit of these funds and their use, upon appropriation by the Legislature for specified purposes. Existing law provides for the repeal of these provisions on July 1, 2004. This bill would extend the operation of these provisions indefinitely, by deleting the repeal provisions.

Existing law establishes the Department of Pesticide Regulation and charges it with various duties.

This bill would require the department to create a program to conduct outreach and education for worker safety, environment safety, school safety, and proper pesticide handling and use. The bill would state the intent of the Legislature as to funding from the General Fund in the annual Budget Act or from the Department of Pesticide Regulation for that program.

...

SEC. 44. (a) It is the intent of the Legislature that the annual Budget Act provide a General Fund amount equal to three million six hundred thousand dollars (\$3,600,000) to be available for expenditure for agricultural worker outreach and education activities established in accordance with Section 12841.2 of the Food and Agricultural Code.

(b) It is the intent of the Legislature that the amount of funding provided to county agricultural commissioners each fiscal year by the Department of Pesticide Regulation from all sources shall equal twenty-two million dollars (\$22,000,000), except for the 2003-04 fiscal year when it shall equal eighteen million dollars (\$18,000,000).

SEC. 45. Section 11502.5 of the Food and Agricultural Code is amended to read:

11502.5. (a) The director may adopt regulations to establish the minimum requirements of education, continuing education, training, experience, and examination for applicants for any license or certificate, or renewal of any license or certificate, issued by the director pursuant to this division or Division 7 (commencing with Section 12500). The director shall not renew a license or certificate if the person who was issued the license or certificate did not complete the required continuing education during the period of validity of the license or certificate, and the person must take and pass the examination to be again issued such a license or certificate.

(b) The director shall establish, by regulation, fees for the Department of Pesticide Regulation's licensing and certification programs as established pursuant to this division or Division 7 (commencing with Section 12500). These programs include, but are not limited to:

- (1) License and certificate examination, application, and renewal.
- (2) Approval of continuing education courses and continuing education course providers.
- (3) Changes related to any license or certificate, including, but not limited to, name or address changes, license or certificate replacement costs, duplicate copy of a license or certificate, and changes in qualified person, bond, insurance, or registered officers.
- (4) Penalties for late payment of licensing and certification fees.
- (c) The fees established pursuant to this section may include administrative costs, including overhead costs.

(d) The regulations shall provide that the examination fee may be charged to applicants who request the director to reschedule an examination due to the applicant's failure to obtain a passing score or failure to appear for the scheduled examination, and for scheduling an examination to amend a license.

(e) The fees established pursuant to this section shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for these programs contained in the annual Budget Act. If the director determines that the revenue collected during the preceding year was greater than, or less than, the expenditure levels for these programs set forth in the Budget Act, the director may further adjust the current fees to compensate for the overcollection or undercollection.

(f) Funds collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund, and shall be available for expenditure by the department, upon appropriation, for the purposes of carrying out the programs established pursuant to this division or Division 7 (commencing with Section 12500).

(g) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted pursuant to this section shall remain in effect until amended by the director.

SEC. 46. Section 11515 of the Food and Agricultural Code is repealed.

SEC. 47. Section 11516 of the Food and Agricultural Code is repealed.

SEC. 48. Section 11703 of the Food and Agricultural Code is amended to read:

11703. (a) Except as otherwise provided in Sections 11704 and 11707, the application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) If the applicant maintains any branch office in this state or outside this state and the applicant engages in the pest control business in this state from that branch office, the applicant shall pay an additional fee as prescribed by the director pursuant to Section 11502.5 for each of these branch offices.

SEC. 49. Section 11704 of the Food and Agricultural Code is amended to read:

11704. (a) A person who is regularly engaged in the business of maintenance gardening and who desires to engage in pest control for hire incidental to that business shall qualify for a pest control business license in the maintenance gardener category by passing the certified commercial applicators examination in both the laws and regulation and the landscape maintenance categories.

(b) The maintenance gardener category shall be limited to pest control in ornamental and turf plantings indoors, in commercial parks, or surrounding structures. A contract or verification that the pest control operation is incidental and that maintenance gardening is the primary purpose shall be immediately submitted to the commissioner or director upon request.

(c) An application for a license limited to the maintenance gardener category shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

SEC. 50. Section 11707 of the Food and Agricultural Code is amended to read:

11707. To any fee which is not paid by the date of expiration, there shall be added a penalty as prescribed by the director pursuant to Section 11502.5.

SEC. 51. Section 11903 of the Food and Agricultural Code is amended to read:

11903. A fee as prescribed by the director pursuant to Section 11502.5 shall accompany each application for an initial certificate.

SEC. 52. Section 11904 of the Food and Agricultural Code is amended to read:

11904. Every certificate shall expire on December 31 of the year for which it is issued. Certificates may be renewed before the expiration date by application to the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty fee as prescribed by the director pursuant to Section 11502.5 shall be paid by an applicant who applies for renewal after the expiration date.

SEC. 53. Section 12021 of the Food and Agricultural Code is amended to read:

12021. An application for an agricultural pest control adviser license shall be in the form prescribed by the director. Each application shall state the name and address of

the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5 to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty as prescribed by the director pursuant to Section 11502.5 shall be assessed against any applicant who applies for a renewal of the license after the expiration date.

SEC. 54. Section 12103 of the Food and Agricultural Code is amended to read:

12103. An application for a license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5 to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued.

To the amount of the license fee shall be added an additional fee, in an amount prescribed by the director pursuant to Section 11502.5, for each branch salesyard, store, or sales location that is owned and operated by the applicant in this state or in other states when doing business from that out-of-state location regarding pesticides to be sold or delivered into or within this state.

SEC. 55. Section 12104 of the Food and Agricultural Code is amended to read:

12104. The license for a pest control dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee as prescribed by the director pursuant to Section 11502.5, for each license and for each branch salesyard, store, or sales location that does business in the state, or that does business in this state from an out-of-state location as specified in Section 12103, by the date of expiration. These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

SEC. 56. Section 12105 of the Food and Agricultural Code is amended to read:

12105. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any fee that is not paid by the date of expiration.

SEC. 57. Section 12201 of the Food and Agricultural Code is amended to read:

12201. An application for a qualified applicator license shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

SEC. 58. Section 12202 of the Food and Agricultural Code is amended to read:

12202. (a) All licenses issued pursuant to this chapter expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in a form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5.

(b) A penalty as prescribed by the director pursuant to Section 11502.5 shall be assessed against any applicant who applies for renewal after the expiration date.

SEC. 59. Section 12252 of the Food and Agricultural Code is amended to read:

12252. (a) An application for a pest control dealer designated agent license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) All licenses issued pursuant to this article shall expire on December 31 of the year for which they are issued.

(c) Licenses may be renewed annually upon application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any license renewal fee that is not paid by the date of expiration of the previously issued license.

SEC. 60. Section 12401 of the Food and Agricultural Code is amended to read:

12401. (a) An application for a pesticide broker license, or renewal of a license, shall be in the form prescribed by the director. Each application for a license, or license renewal, shall state the name and address of the applicant, and any other information specified on the application or required by the director, and be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) An additional license fee, or license renewal fee, as prescribed by the director pursuant to Section 11502.5, shall be paid for each branch location, whether within or outside of this state, of the applicant that sells or distributes into or within the state any pesticide products that are labeled for agricultural use.

SEC. 61. Section 12404 of the Food and Agricultural Code is amended to read:

12404. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any license renewal fee that is not paid by the date of expiration of a previously issued license or license renewal.

SEC. 62. Section 12812 of the Food and Agricultural Code is repealed.

SEC. 63. Section 12812 is added to the Food and Agricultural Code, to read:

12812. (a) The director shall establish, by regulation, fees for the Department of Pesticide Regulation's registration program, as established pursuant to this division. The fees shall include, but are not limited to, the following:

- (1) Annual fees for each product submitted for registration.
- (2) Penalties for the late payment of registration fees.
- (3) Fees for amendments to registered products.

(b) The fees established pursuant to this section may include costs for administration and overhead in connection with administering the fees.

(c) The fees established pursuant to this section shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for the registration program contained in the annual Budget Act.

(d) Funds collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund, and shall be available for expenditure by the department,

upon appropriation by the Legislature, for the purposes of carrying out the department's pesticide registration program, as established pursuant to this division.

(e) The regulations adopted pursuant to this section, or any amendment or readoption thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1

of Division 3 of Title 2 of the Government Code. However, the adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the director.

SEC. 64. Section 12818 of the Food and Agricultural Code is amended to read:

12818. If renewal is not applied for within one calendar month after the expiration of a registration, a penalty as prescribed by the director pursuant to Section 12812 shall be added to the registration fee.

SEC. 65. Section 12841 of the Food and Agricultural Code is amended to read:

12841. (a) It is unlawful for any person to sell for use in this state any pesticide products that have been registered by the director for which the mill assessment established by this article, and the regulations adopted pursuant to it, is not paid at the times specified in Section 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. Those sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in this state. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of any registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

(2) For purposes of this section, "active ingredient" means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) In those cases where the registrant did not first sell the pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker,

licensed pest control dealer, or other person who first sold the pesticide for use in this state.

(2) No person is required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

(e) It has been and continues to be the intent of the Legislature that this division requires the department to register all pesticides prior to their sale for use in this state and, except as otherwise provided by law, requires the department to regulate and control the use of pesticides in accordance with this division. Except as provided in Section 12841.1, the department shall continue to collect the assessment as provided in this article at the same rate on all registered agricultural and registered nonagricultural pesticides.

(f) (1) The mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:

(A) From January 1, 1998, to March 31, 1999, inclusive, the rate shall be 15.15 mills (\$0.01515) plus any additional assessment authorized by Section 12841.1.

(B) From April 1, 1999, to December 31, 2002, inclusive, the rate shall be 17.5 mills (\$0.0175) plus any additional assessment authorized by Section 12841.1.

(C) From January 1, 2003, to December 31, 2003, inclusive, the rate shall be 17.5 mills (\$0.0175).

(D) For all transactions on or after January 1, 2004, the actual rate shall be that set by regulations adopted by the director at a rate adequate to support the department's annual expenditures authorized in the annual Budget Act and provide a prudent reserve. The rate set by the director shall be no greater than 21 mills (\$0.021). However, if regulations are not adopted before a payment is due, payment shall be made at the rate of 17.5 mills (\$0.0175), and, upon adoption of regulations, payment of any additional amount due shall be made.

(2) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, the adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the director. The director shall make available to the public, upon the adoption of an emergency regulation establishing a new rate, the information upon which the director has calculated, based, or determined the new rate.

(g) The revenue collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund and distributed as follows:

(1) Notwithstanding Sections 2282 and 12784, the director shall pay, in accordance with the criteria set forth in Section 12844, the following amounts to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of Division 6 (commencing with Section 11401), this chapter, Chapter 3 (commencing with Section 14001), Chapter 3.4 (commencing with Section 14090), and Chapter 3.5 (commencing with Section 14101):

(A) From January 1, 1998, to March 31, 1998, inclusive, five-eighths of the money received during that period pursuant to this section.

(B) Beginning April 1, 1998, an amount equal to the revenue derived from 6 mills (\$0.006) per dollar of sales for all pesticide sales for use in this state.

(2) All funds not otherwise distributed pursuant to this subdivision shall remain in the Department of Pesticide Regulation Fund and shall be available for expenditure, upon appropriation, to support the department's operations.

SEC. 66. Section 12841.1 of the Food and Agricultural Code is amended to read:

12841.1. (a) The director may collect an assessment, in addition to the mill assessment collected pursuant to Section 12841, for all pesticide sales for use in this state except for sales for use in this state of pesticides labeled solely for home, industrial, or institutional use. The director may only collect up to an additional three-fourths mill (\$0.00075) per dollar of sales, in addition to the rate established pursuant to Section 12841, if necessary to fund, or augment the funding for, an appropriation to the Department of Food and Agriculture to provide pesticide consultation to the department pursuant to Section 11454.2. The necessity of this additional assessment shall be determined by the Secretary of Food and Agriculture, in consultation with the director, on an annual basis after consideration of all other revenue sources, including any reserves, which may be appropriated for this purpose. The secretary's written determination, including a request for a specified additional assessment and the basis for that request, shall be provided to the director by a time and in a manner prescribed by the director.

(b) The revenue collected pursuant to this section shall be deposited monthly in a separate account in the Department of Food and Agriculture Fund. These revenues shall be expended only by the Department of Food and Agriculture, upon appropriation, to provide consultation to the department pursuant to Section 11454.2. No funds may be expended prior to the execution of a memorandum of understanding pursuant to subdivision (b) of Section 11454.2. The consultation activities to be undertaken by the Department of Food and Agriculture are limited solely to those specifically authorized in the memorandum of understanding executed pursuant to Section 11454.2. These funds may not be expended for scientific risk assessment activities. The department shall be reimbursed from the Department of Food and Agriculture Fund for the department's revenue collection activities. If the director determines that a person is entitled to a refund of mill assessment funds that were collected pursuant to this section, the director shall inform the Secretary of Food and Agriculture of the amount of the refund due, which shall be reimbursed from the Department of Food and Agriculture Fund.

SEC. 67. Section 12841.2 is added to the Food and Agricultural Code, to read:

12841.2. (a) The Department of Pesticide Regulation shall create a program to conduct outreach and education activities for worker safety, environmental safety, school safety, and proper pesticide handling and use, to include, but not be limited to, the following issues and criteria:

(1) The program shall encompass all communities, including urban, rural, and suburban communities.

(2) All potential exposure opportunities, including household, industrial, and agricultural uses.

(3) Rights and procedures of workers and those potentially exposed to pesticides and how to file confidential complaints.

(b) The program shall be conducted in accordance with the department's environmental justice guidelines.

(c) The director shall appoint an advisory committee of interested stakeholders to provide input on the development and implementation of the program.

(d) This program shall compliment and not replace other outreach efforts currently in place not dealing with the issues addressed within this program.

SEC. 68. Section 14152 of the Food and Agricultural Code is amended to read:

14152. An application for a qualified applicator certificate shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5. All certificates issued under this chapter shall expire on December 31 of the year for which they are issued. Certificates may be renewed annually by the date of expiration by application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty shall be assessed against any applicant who applies for renewal after the expiration date as prescribed by the director pursuant to Section 11502.5.

BILL NUMBER: SB 1107
BILL TEXT

CHAPTERED

CHAPTER 230
PASSED THE SENATE JULY 29, 2004
PASSED THE ASSEMBLY JULY 28, 2004
AMENDED IN ASSEMBLY JULY 28, 2004
AMENDED IN ASSEMBLY JULY 27, 2004
AMENDED IN ASSEMBLY JUNE 29, 2004

INTRODUCED BY Committee on Budget and Fiscal Review

JANUARY 12, 2004

An act to amend...Section 12841 of, and to repeal Section 12112 of, the Food and Agricultural Code.

(Approved by Governor August 16, 2004. Filed with Secretary of State August 16, 2004.)

I am signing Senate Bill 1107 with the following reductions:

The Sierra Nevada's are a valuable natural asset for all Californians. There is a bipartisan proposal pending in the Legislature to create a Sierra Nevada Conservancy that balances statewide values and local interests. I am deleting \$5 million of the \$9.15 million appropriation for the Sierra Nevada Cascade and sustaining \$4.15 million to assure that there are adequate resources to make the Sierra Nevada Conservancy a success when it is created. The remaining funding level more accurately reflects the actual amount that the Secretary will be able to expend in the 2004-05 fiscal year until the conservancy is fully implemented. Additionally, I am deleting \$28.35 million of the \$38.35 million appropriations for the purpose of awarding grants related to River Parkways conservation programs. These reductions better reflect the actual amount that the Secretary will be able to expend in the 2004-05 fiscal year because the bill requires new program activities which will take time to implement.

ARNOLD SCHWARZENEGGER, Governor

LEGISLATIVE COUNSEL'S DIGEST

SB 1107, Committee on Budget and Fiscal Review. Resources.
....Existing law requires the Director of Pesticide Regulation to expend a specified percentage of license fees collected pursuant to the pest control dealer's licensing program to reimburse the counties and appropriates the amount of these payments from the Department of Pesticide Regulation Fund.

This bill would repeal these provisions.

Existing law requires every person who sells for use in this state a pesticide product that has been registered by the Director of Pesticide Regulation to pay to the director applicable assessments, except as specified. Existing law requires the revenue collected from the mill assessment to be deposited in the Department of Pesticide Regulation Fund with an amount equal to the revenue derived from 6 mills per dollar of sales for all pesticide sales for use in this state to be distributed to the counties as reimbursements for costs incurred in the administration and enforcement of pesticide regulations.

This bill would, beginning July 1, 2004, increase the amount to be distributed to the counties to an amount equal to the revenue derived from 7.6 mills per dollar of sales for all pesticide sales for use in this state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

...

SEC. 2. Section 12112 of the Food and Agricultural Code is repealed.

SEC. 3. Section 12841 of the Food and Agricultural Code is amended to read:

12841. (a) It is unlawful for a person to sell for use in this state any pesticide products that have been registered by the director for which the mill assessment established by this article, and the regulations adopted pursuant to it, is not paid at the times specified in Section 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment.

Those sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in this state. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of a registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide product. The

director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

(2) For purposes of this section, "active ingredient" means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) In those cases where the registrant did not first sell the pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker, licensed pest control dealer, or other person who first sold the pesticide for use in this state.

(2) A person is not required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

(e) It has been and continues to be the intent of the Legislature that this division requires the department to register all pesticides prior to their sale for use in this state and, except as otherwise provided by law, requires the department to regulate and control the use of pesticides in accordance with this division. Except as provided in Section 12841.1, the department shall continue to collect the assessment as provided in this article at the same rate on all registered agricultural and registered nonagricultural pesticides.

(f) (1) The mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:

(A) From January 1, 1998, to March 31, 1999, inclusive, the rate shall be 15.15 mills (\$0.01515) plus any additional assessment authorized by Section 12841.1.

(B) From April 1, 1999, to December 31, 2002, inclusive, the rate shall be 17.5 mills (\$0.0175) plus any additional assessment authorized by Section 12841.1.

(C) From January 1, 2003, to December 31, 2003, inclusive, the rate shall be 17.5 mills (\$0.0175).

(D) For all transactions on or after January 1, 2004, the actual rate shall be that set by regulations adopted by the director at a rate adequate to support the department's annual expenditures authorized in the annual Budget Act and provide a prudent reserve. The rate set by the director shall be no greater than 21 mills (\$0.021). However, if regulations are not adopted before a payment is due, payment shall be made at the rate of 17.5 mills (\$0.0175), and, upon adoption of regulations, payment of any additional amount due shall be made.

(2) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, the adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the director. The director shall make available to the public, upon the adoption of an

emergency regulation establishing a new rate, the information upon which the director has calculated, based, or determined the new rate.

(g) The revenue collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund and distributed as follows:

(1) Notwithstanding Sections 2282 and 12784, the director shall pay, in accordance with the criteria set forth in Section 12844, the following amounts to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of Division 6 (commencing with Section 11401), this chapter, Chapter 3 (commencing with Section 14001), Chapter 3.4 (commencing with Section 14090), and Chapter 3.5 (commencing with Section 14101):

(A) From January 1, 1998, to March 31, 1998, inclusive, five-eighths of the money received during that period pursuant to this section.

(B) From April 1, 1998 to June 30, 2004, an amount equal to the revenue derived from 6 mills (\$0.006) per dollar of sales for all pesticide sales for use in this state.

(C) Beginning July 1, 2004, an amount equal to the revenue derived from 7.6 mills (\$0.0076) per dollar of sales for all pesticide sales for use in this state.

(2) All funds not otherwise distributed pursuant to this subdivision shall remain in the Department of Pesticide Regulation Fund and shall be available for expenditure, upon appropriation, to support the department's operations.

...

Section III – 2003-04 Vetoed Legislation: Summary

The following bills were tracked by DPR during the 2003-04 legislative session, passed by the Legislature, and sent to the Governor's desk. The following information provides a summary of those bills tracked by DPR as having potential to impact the pesticide regulatory program, which were ultimately vetoed by Governor Davis or Governor Schwarzenegger.

AB 2631 (Wolk) Natural Resources: invasive species.

09/29/2004 - ASM VETOED Vetoed by the Governor

Existing law regulates the discharge of nonindigenous species into the waters of the state or into waters that may impact waters of the state, through ballast water management requirements. This bill would make findings and declarations regarding invasive species and, among other things, would establish the Invasive Species Council, to develop a statewide invasive species plan and make recommendations for review and approval by the Governor for the prevention, early detection and rapid response, and control and management of invasive species. The bill would require the statewide plan to include various specific elements, including an assessment of existing programs addressing invasive species. The bill would require the council to appoint an Invasive Species Advisory Committee to assist the council in preparing the statewide plan. The bill would authorize and require the council to undertake other activities related to invasive species. The bill would establish the Invasive Species Management Fund in the State Treasury. The money in the fund would be available, upon appropriation, to support activities authorized by the bill. This bill contains other related provisions.

Governor's Veto Message for AB 2631:

I am returning Assembly Bill 2631 without my signature.

California has several strong pest prevention, control, and eradication programs that serve as models for other states and countries. We have implemented numerous Memorandum of Understandings and cooperative agreements among agencies to assist in combating these threats to our environmental and agricultural resources. Yet more needs to be done. I am directing Secretaries Kawamura and Chrisman to review existing invasive species prevention and eradication efforts, identify opportunities for federal funding, and make recommendations to me on ways to enhance cooperation and effectiveness by December 31, 2004. This measure establishes the Invasive Species Council which is designed to study and develop policy recommendations for the prevention and eradication of invasive species. This bill creates an additional costly layer of bureaucracy, including unfunded mandates, at a time when we are promoting government efficiency. For these reasons I am unable to support this measure. Sincerely,

Arnold Schwarzenegger

SB 568 (Sher) Environmental protection: external scientific peer reviewers.

09/15/2004 - SEN VETOED Vetoed by the Governor

Existing law requires the California Environmental Protection Agency, or a board, department, or office within the agency, to enter into an agreement with the National Academy of Sciences, the University of California, the California State University, or any similar institution of higher learning, or any combination of those entities, or with a scientist or group of scientists of comparable stature and qualifications that is recommended by the President of the University of California, to conduct an external

scientific peer review of the scientific basis for any rule proposed by any board, department, or office within the agency, and prescribes procedures for conducting that scientific peer review, as specified. This bill would prohibit any person with a financial interest, as described, that is related to the subject matter of the review from serving as an external scientific peer reviewer for a peer review initiated on or after January 1, 2004, and would make a conforming change.

Governor's Veto Message for SB 568:

I am returning Senate Bill 568 without my signature.

I support having clear conflict of interest standards for independent scientists who judge whether the California Environmental Protection Agency's (CalEPA) regulations are based on sound science. However, this bill contains a critical flaw by making university and independent scientists subject to the conflict of interest rules developed for state employees and elected officials. Scientists in academia face different kinds of potential conflicts than policymakers and public officials, and should therefore be governed by standards that reflect their particular profession. The bill would prohibit a person from performing a statutorily mandated peer review of a CalEPA scientific document if they meet certain criteria for conflicts of interest. By using general definitions that apply to policymakers, this bill would prohibit many of the most qualified scientists from performing peer reviews, while not adequately screening out other scientists who may have actual conflicts of interest.

Sincerely,

Arnold Schwarzenegger

SB 1901 (Alarcon) Safety in employment: grape tasting.

09/29/2004 - SEN VETOED Vetoed by the Governor

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to provide safe and healthful working conditions for all employees, and provides penalties for employers who fail to comply with the act's provisions. This bill would prohibit employers from requiring harvesting employees to taste or consume unwashed grapes in the field or prior to processing, except in limited circumstances and under certain conditions. The bill would impose civil penalties, as specified, for employers who violate the bill's provisions, in addition to any other penalty provided by law. Because certain violations of the bill's prohibitions would constitute criminal offenses, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Governor's Veto Message for SB 1901:

I am returning Senate Bill 1901 without my signature.

I share the goal of this measure to protect agricultural employees from being forced to taste-test unwashed grapes. Existing law, including Labor Code statute and the

standards adopted by the Occupational Safety and Health Standards Board, requires employers to provide employees with a safe and healthy workplace. Protecting employees from the effects of tasting or consuming grapes is covered under this mandate. As such, the key to ensuring workers are not forced to consume unwashed grapes is through strengthened enforcement of existing laws, not through the enactment of more laws. The Labor and Workforce Development Agency, which oversees Cal/OSHA and workplace health and safety standards, is committed to such enforcement.

Sincerely,

Arnold Schwarzenegger

**Section IV: 2003-04 Legislation:
Failed, Died, or Withdrawn**

The following bills were tracked by DPR during the 2003-04 legislative session as having potential to impact California's pesticide regulatory program. The following bills did not pass out of the Legislature. The bills either failed passage out of committee, died" due to failure to meet legislative deadline requirements, or were withdrawn by the bill's author.

AB 288 (Aghazarian) Taxation: agriculture: irrigation.

02/02/2004 - ASM DEAD From committee: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

Existing law requires, or, in some instances, permits, the use of translators or interpreters by various agencies, organizations, or entities for non-English-speaking or deaf persons in connection with various functions. This bill would prohibit specified state or local governmental agencies, or public or private agencies, organizations, entities, or programs that receive state funding, from using any child, or permitting any child to be used, as an interpreter, as defined, in any matter involving the business or function of that agency, organization, entity, or program, except as specified, and would require each such agency, organization, entity, or program that receives state funding to have in place, and available for inspection, an established procedure for providing competent interpretation services that does not involve the use of children, as defined. The bill would provide that this prohibition is not applicable to school districts, county boards of education, community colleges, the office of a county superintendent of schools, or a community college district. This bill contains other related provisions and other existing laws.

The annual Budget Act makes appropriations for the support of state government. This bill would require each state agency, board, commission, department, or office to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 1998-99, 1999-2000, 2000-01, 2001-02, and 2002-03 fiscal years no later than January 15, 2004, and for each subsequent fiscal year by January 15 of the following year in accordance with specified requirements.

AB 387(Aghazarian) Hazardous materials: farms: business plans and inventories.

05/15/2003 - SEN ENV. QUAL. Referred to Com. on ENV. QUAL.

This bill would exempt a business operating a farm, as specified, from establishing and filing a business plan if the only hazardous materials on site at the farm are small amounts of oils or fertilizers, or small amounts of other hazardous materials that are on site for less than 10 days at a time. By changing the definition of a crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

AB 788 (Chavez) Air pollution: consumer products.

06/19/2003 - SEN ENV. QUAL. In committee: Set, first hearing. Hearing canceled at the request of author.

Existing law requires the State Air Resources Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer

products, if the state board determines that adequate data exist to establish that the regulations are necessary to attain state and federal ambient air quality standards, and that the regulations are commercially and technologically feasible and necessary. Existing law also prohibits the state board from adopting a regulation pertaining to disinfectants before December 1, 2003. This bill would extend that prohibition until January 1, 2005 . This bill contains other related provisions.

AB 1006 (Chu) Healthy Schools Acts of 2004

06/15/2004 - In committee: Set, first hearing. Hearing canceled at the request of author.

Existing law generally regulates pesticide use. Existing law, the Healthy Schools Act of 2000, requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts. This bill, the Healthy Schools Act of 2004 , would prohibit all public schools from using the most highly toxic pesticides, as listed, on school property. This bill would provide that its provisions would not apply to antimicrobial pesticides products deployed in the form of a self-contained bait or trap or as a crack and crevice treatment, agricultural uses, or activities undertaken by participants in agricultural vocational education, as specified. This bill contains other related provisions.

**AB 291 (Aghazarian) Personal income and corporation taxes:
tax credit: agricultural environment remediation expenditure.**

02/02/2004 - ASM DEAD From committee: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec.10(c) of the Constitution.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws. This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2003, and before January 1, 2008, in an amount equal to 25% of the qualified agricultural environment remediation expenditure, as defined, paid or incurred during the taxable year by a taxpayer engaged in an agricultural business activity in the San Joaquin River basin, Sacramento River basin, or Tulare Lake basin. This bill contains other related provisions.

AB 292 (Yee) Interpreters: prohibition on use of children

08/04/2004 - SEN APPR. From committee chair, with author's amendments Amend, and re-refer to committee. Read second time, amended, and re referred to Com. on APPR.

Existing law requires, or, in some instances, permits, the use of translators or interpreters by various agencies, organizations, or entities for non-English-speaking or deaf persons in connection with various functions. This bill would prohibit specified state or local governmental agencies , or public or private agencies, organizations, entities, or programs that receive state funding, from using any child, or permitting any child to be

used, as an interpreter, as defined, in any matter involving the business or function of that agency, organization, entity, or program, except as specified, and would require each such agency, organization, entity, or program that receives state funding to have in place, and available for inspection, an established procedure for providing competent interpretation services that does not involve the use of children, as defined. The bill would provide that this prohibition is not applicable to school districts, county boards of education, community colleges, the office of a county superintendent of schools, or a community college district. This bill contains other related provisions and other existing laws.

AB 1076 (Maldonado) Regulations: low volume pesticide applications.

06/10/2004 - SEN ENV. QUAL. In committee: Set, second hearing. Hearing canceled at the request of author.

Under existing law, the use of pesticides is subject to regulation by statute and by regulations adopted by the Director of Pesticide Regulation. Existing law allows the director to adopt regulations that are reasonably necessary to carry out statutory provisions regarding pesticide use. This bill would require the director to adopt regulations regarding low volume pesticide applications, as defined, pursuant to federal laws, regulations, and opinions on the subject .

AB 1107(Liu) Groundwater: uniform data standards.

02/02/2004 - ASM DEAD From committee: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

Existing law requires the State Water Resources Control Board to integrate existing monitoring programs and design new program elements, as necessary, for the purpose of establishing a comprehensive monitoring program capable of assessing each groundwater basin in the state through direct and other statistically reliable sampling approaches, and to create an interagency task force composed of representatives of listed state agencies to identify actions necessary to establish the monitoring program and to identify measures that would increase coordination among state and federal agencies that collect groundwater contamination information. This bill would additionally require the interagency task force to develop uniform groundwater data standards. The bill would require the state board, the Department of Water Resources, the State Department of Health Services, the Department of Pesticide Regulation, the Department of Toxic Substances Control, and the Department of Food and Agriculture to adopt any standards that are developed pursuant to the bill.

AB 1447(Matthews) Proposition 65: enforcement.

02/02/2004 - ASM DEAD From committee: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec.10(c) of the Constitution.

The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally

exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from knowingly discharging or releasing such a chemical into any source of drinking water, except as specified. The act imposes civil penalties upon persons who violate those prohibitions, and provides for the enforcement of those prohibitions by the Attorney General, a district attorney, or specified city attorneys or prosecutors, and by any person in the public interest. The act requires any person bringing an action in the public interest, or any private person filing an action in which a violation of the act is alleged, to notify the Attorney General that such an action has been filed. This bill would authorize a person who receives, from a person bringing an action in the public interest, a notice alleging a violation of the warning requirements of the act to serve a written offer, including a specified declaration under penalty of perjury, to enter into a resolution of the notice's allegations, before the enforcement action is commenced. The bill would prohibit a person who brings an action in the public interest from receiving an award of civil penalties if the written offer includes a specified declaration and the person serving the written offer agrees to provide a clear and reasonable warning or eliminate or reduce the alleged exposure, as specified. The bill would also prohibit a person bringing an action in the public interest from receiving attorney's fees, as specified, if the person who makes the written offer agrees to reimburse the attorney's fees and other costs and the person who brings the action does not achieve a more favorable result than the terms of the offer. This bill contains other related provisions and other existing laws.

AB 1926 (Bermudez) Trapping licenses: exemptions.

06/22/2004 - SEN N.R. & W. In committee: Set, first hearing. Hearing canceled at the request of author.

Existing law requires every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the Fish and Game Commission or who sells raw furs of those mammals, to procure a trapping license from the Department of Fish and Game. This bill would exempt a structural pest control operator and a person or business licensed or certified by the Department of Pesticide Regulation from the licensing requirement for trapping mammals. This bill contains other existing laws.

AB 1940 (Chan) Hazardous chemicals: testing methods.

05/27/2004 - ASM DEAD To inactive file on motion of Assembly Member Chan.

Existing law requires the California Environmental Protection Agency to initiate a scientific peer review of screening levels for certain contaminants and to complete the process by December 31, 2004. The agency is required to publish, by March 1, 2004, a list of screening numbers determined for specified contaminants, and to conduct public workshops in establishing and revising those levels. This bill would require each manufacturer of a high production volume chemical or a reportable chemical, as defined, for each high production volume chemical and reportable chemical imported into, or offered for sale in, this state by the manufacturer, to provide the agency with

test methods, including chemical biomarkers of exposure, the octanol water partition coefficient, and the bioconcentration factor, for that chemical.

AB 2198 (Liu) State agencies: reports: electronic format.

04/13/2004 - ASM DEAD In committee: Set, first hearing. Hearing canceled at the request of author.

Existing law requires state agencies to prepare and submit various reports to the Legislature, the Governor, and other recipients. This bill would provide that when a state agency is requested or required to submit a report, and the resolution or statute does not require that each specified recipient receive a physical copy of the report, then, in the case of a report to the Governor, a physical copy shall be submitted to the Governor, in the case of a report to the Legislature, a physical copy shall be submitted to the Clerk of the Assembly and the Secretary of the Senate, and in the case of a report to a specified committee of the Legislature, a physical copy shall be submitted to the chairperson and vice chairperson of the committee. It also would require that each report a state agency is required to submit be available in an electronic format and specify an Internet Web site where the report may be downloaded and a telephone number to call to order a physical copy of the report.

AB 2576 (Mountjoy) Public agencies: identification documents.

04/20/2004 - ASM DEAD ASM. B. & P. Vote

Existing law requires public agencies to issue to eligible persons licenses and permits and to provide other services upon receipt of specified identification documents from those persons. This bill would require that, except as otherwise provided by federal law, when an official of any state or local public agency is required to obtain an identification document from a person in order to issue a license, permit, or other document to that person, to provide services to that person, or to otherwise conduct the agency's business, the official shall accept only a secure and verifiable document. The bill defines a secure and verifiable document for this purpose as a document that is issued by any agency of any state or by any federal agency, or a foreign passport with a valid United States entry stamp, and verifiable by a federal or state law enforcement, intelligence, or homeland security agency so that the veracity of the document may be ascertained.

AB 2953 (Matthews) Air pollution: Carl Moyer Memorial Air Quality Standards Attainment Program: eligibility criteria.

08/25/2004 - SEN THIRD READING In committee: Set, first hearing. Hearing canceled at the request of author.

Existing law, the Carl Moyer Memorial Air Quality Standards Attainment Program, administered by the State Air Resources Board and delegable to air pollution control and air quality management districts, provides grants to offset the incremental costs of eligible projects that reduce emissions of oxides of nitrogen from covered vehicles and covered engines, as defined, in the state. Under existing law, eligible projects include

the purchase of new very low- or zero-emission covered vehicles or covered engines, emission-reducing retrofit of covered engines, or replacement of old engines powering covered sources with newer, cleaner engines, purchase and use of emission-reducing add-on equipment for covered vehicles, and development and demonstration of practical, low-emission retrofit technologies, repower options, and advanced technologies for covered engines and vehicles with very low emissions of oxides of nitrogen. Existing law prohibits the program from funding a new purchase, retrofit, repower, or add-on equipment if it is required by any local, state, or federal statute, rule, regulation, memoranda of agreement or understanding, or other legally binding document. This bill would revise that prohibition to apply only if the new purchase, retrofit, repower, or add-on equipment is required by the compliance date of that local, state, or federal statute, rule, regulation, memoranda of agreement or understanding or other legally binding document.

AB 3028 (Committee on Agriculture) Pesticide mill assessment.

05/19/2004 - ASM DEAD In committee: Set, second hearing. Held under submission.

Existing law imposes a mill assessment on specified pesticide sales. This bill would direct the California Department of Pesticide Regulation to investigate and determine the level of compliance with mill assessment reporting and payment statutes for both licensed and unlicensed sellers and distributors of pesticides into or within California, and to report its findings to the Legislature no later than January 1, 2006.

ABX5 1 (Haynes) State agency fiscal reports.

12/04/2003 - ASM BUDGET Referred to Com. on BUDGET.

The annual Budget Act makes appropriations for the support of state government. This bill would require each state agency, board, commission, department, or office to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 1998-99, 1999-2000, 2000-01, 2001-02, 2002-03, and 2003-04 fiscal years no later than January 15, 2005, and for each subsequent fiscal year by January 15 of the following year in accordance with specified requirements.

SB 202 (Romero) Wood waste: preservatives.

02/02/2004 - SEN DEAD Returned to Secretary of Senate pursuant to Joint Rule 56.

Existing law regulates the control of hazardous waste, but exempts from the hazardous waste control laws, wood waste treated with a preservative that is exempt from regulation under the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA), if the wood waste is disposed of in a specified portion of a solid waste landfill and meets other specified requirements. A violation of the state's hazardous waste control laws is a crime. This bill would repeal the exemption for wood

waste and instead would prohibit any person, on and after January 1, 2005, from using chromated copper arsenate (CCA) or pentachlorophenol (penta) to treat wood products or manufacturing a wood product treated with those substances. The bill would provide, on and after January 1, 2005, that wood waste containing any measurable level of CCA or penta is a hazardous waste for purposes of the hazardous waste control laws. The bill would require any person disposing of that wood waste to dispose of that waste pursuant to the hazardous waste control laws, thereby imposing a state-mandated local program by creating a new crime. This bill contains other related provisions and other existing laws.

SB 350 (Morrow) Pesticides: spinozad

02/02/04 – Dead. Returned to the Senate pursuant to joint rule 56.

This bill would require the Secretary for the Department of Food and Agriculture to take action to ensure adequate supplies of the organic pesticide Spinozad are available for agricultural use. This measure contains an urgency clause and would go into effect immediately.

SB 403 (Florez) California Clean Air Bond Act.

06/28/2004 - ASM RLS. From committee: Be re-referred to Com. on RLS. (Ayes 9. Noes 0.) Re-referred to Com. on RLS.

Under existing law, various bond acts have been approved by the voters to provide funds for projects, facilities, and programs. This bill would enact the California Clean Air Bond Act which, if adopted, would authorize, for purposes of financing an air quality program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,150,000,000. This bill contains other related provisions.

SB 533 (Romero) Pesticide Mill Assessment – restricted materials fees.

02/02/2004 - SEN DEAD Returned to Secretary of Senate pursuant to Joint Rule 56.

Existing law prescribes the powers and duties of county agricultural commissioners. This bill would in addition, authorize county agricultural commissioners to impose and collect a fee in an unspecified amount on pesticide applicators and expend those funds for the regulation of restricted use pesticides, as specified. Existing law requires every registrant of a pesticide product to pay the Director of Pesticide Regulation an assessment of 17.5 mills per dollar of sales for all sales by that person of registered pesticide for use in this state, as specified. This bill would authorize an additional mill assessment, in an unspecified amount, on the sale of all restricted use pesticides for use in this state. The bill would provide that the additional mill assessment would be distributed to counties, upon appropriation, for purposes of regulating restricted use pesticides.

SB 701(Florez) California Clean Air Bond Act of 2004.

02/02/2004 - SEN SENATE Returned to Secretary of Senate pursuant to Joint Rule 56.

Under existing law, various bond acts have been approved by the voters to provide funds for projects, facilities, and programs. This bill would enact the California Clean Air Bond Act of 2004 which, if adopted, would authorize, for purposes of financing an air quality program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$4,550,000,000. This bill contains other related provisions.

SB 750(Machado) Safe Drinking Water, Water Quality, Flood Protection, and Water Supply Reliability Act of 2004.

02/02/2004 - SEN SENATE Returned to Secretary of Senate pursuant to Joint Rule 56.

Under existing law, various measures have been approved by the voters to provide funds for water projects, facilities, and programs. This bill would enact the Safe Drinking Water, Water Quality, Flood Protection, and Water Supply Reliability Act of 2004 which, if adopted, would authorize, for purposes of financing a safe drinking water, water quality, flood protection, and water supply reliability program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,000,000,000. This bill contains other related provisions.

SB 1168 (Ortiz) Healthy Californians Biomonitoring Program.

06/22/2004 - ASM HEALTH Set, first hearing. Failed passage in committee. Reconsideration granted.

Existing law establishes various programs for the protection of the public from exposure to toxins, including, but not limited to, the Childhood Lead Poisoning Prevention Act, administered by the State Department of Health Services, which imposes a fee upon manufacturers or persons who are responsible for lead contamination and applies the proceeds of the fee to reduction or elimination of the harm caused by the lead contamination. This bill would, commencing January 1, 2006, similarly require the Division of Environmental and Occupational Disease Control within the department to establish the Healthy Californians Biomonitoring Program to utilize biospecimens to identify toxic chemicals that are present in the bodies of Californians and would require the division to initiate plans to minimize exposure to those contaminants. This bill would require the director and the secretary to identify and list toxic chemicals that are subject to the bill, would require a phased implementation of the listed chemicals, and would authorize the Office of Environmental Health Hazard Assessment within the California Environmental Protection Agency to adopt regulations. This bill contains other related provisions.

SB 1446 (Escutia) Environmental health data tracking.

08/12/2004 - ASM APPR. SUSPENSE FILE Set, second hearing. Held in committee and under submission.

Existing law establishes the Environmental Health Surveillance System through an interagency agreement between the State Department of Health Services, the California Environmental Protection Agency, and the University of California if authorized by the regents, for the purpose of, among other things, tracking and evaluating a variety of chronic diseases in relation to environmental exposures. This bill would require, pursuant to that interagency agreement, the establishment of the Interagency Office of Environmental Health Tracking within the department's Division of Environmental and Occupational Disease Control for the purpose of implementing the California Health Tracking Program. The bill would require the department and the Cal/EPA to each provide one 50% time research scientist as staff for the new office. The bill would prescribe the office's objectives over a 3-year period and would require the office to complete certain duties for the 2004-05 fiscal year

SB 1477(Sher) Water quality.

06/22/2004 - ASM E.S. & T.M. Set, second hearing. Failed passage in committee.

Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal agencies that regulate water quality. This bill would require the state board and the Department of Fish and Game to develop a memorandum of understanding to facilitate consultation, and coordinate permitting processes, among the state board, the regional boards, and the Department of Fish and Game with regard to the issuance of a waste discharge permit for a discharge that may require the issuance of an incidental take permit or the execution of a streambed alteration agreement under state law. The bill would require the state board to develop a process to facilitate consultation and reduce duplication among the state board, the regional boards, and the National Marine Fisheries Service or the United States Fish and Wildlife Service with regard to the issuance of a waste discharge permit for a discharge that may require the issuance of an incidental take statement or an incidental take permit under federal law. This bill contains other related provisions and other existing laws.

SB 1552(Machado) Water quality: total maximum daily loads.

05/20/2004 - SEN DEAD Set, first hearing. Held in committee and under submission.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with regulatory authority over water quality. Under the federal Clean Water Act, each state is required to identify those waters for which prescribed effluent limitations are not stringent enough to implement applicable water quality standards and to establish, with regard to those waters, total maximum daily loads, subject to the approval of the United States Environmental Protection Agency, for certain pollutants at a level necessary to implement those water quality standards. This bill would authorize

the regional boards to recommend, and the state board to adopt, minimum stream flow requirements in connection with establishing total maximum daily loads pursuant to the federal Clean Water Act.

SB 1728(Aanestad) Private property: state agency access.

04/14/2004 - SEN DEAD Set, second hearing. Hearing canceled at the request of author.

Existing law provides that every person who, among other acts, willfully commits a trespass by refusing or failing to leave lands immediately upon being requested by the owner of the land is guilty of a misdemeanor. This bill would prohibit the Department of Fish and Game and the Department of Water Resources from entering upon private property except with the consent of the property owner and pursuant to specified requirements, including that the department notify the owner of private property by telephone at least 72 hours prior to the department's entering the property. The bill would define obtaining consent for this purpose as executing an entry permit with specified terms limiting the property owner's liability. The bill would provide that the owner, within 48 hours after receiving this notice, may notify the department of specified conditions on the department's entry upon the property. This bill would further require the department, when it enters upon private property, to, among other things, comply with any reasonable condition of entry that the property owner may establish. This bill contains other related provisions.

SB 1801(Bowen) Credit card processing fees.

04/21/2004 - SEN DEAD Returned to Secretary of Senate pursuant to Joint Rule 62(a).

Existing law authorizes state and local agencies and courts to provide for payment by credit card for specified services or obligations under prescribed conditions, which may include the imposition of a fee or charge for costs. This bill would, on and after May 1, 2005, prohibit any state agency or agent for a state agency that accepts a credit card or debit card as payment for any service or obligation from imposing any processing fee or charge for the use of that card that is not also imposed upon persons who pay for the same service or obligation by cash or check.

SB 1888(Florez) Pesticide poisoning: EMS training.

05/03/2004 - SEN DEAD From committee with author's amendments. Read second time. Amended. Re-referred to committee.

Existing law establishes reporting requirements relating to pesticide poisoning, and requires the Office of Environmental Health Hazard Assessment to develop and implement a program to alert physicians and others regarding symptoms, diagnosis, and treatment. This bill would require the office to consult with the authority regarding the adequacy of emergency services personnel training concerning pesticide poisoning. This bill contains other existing laws.

SBX1 4 (Committee on Budget and Fiscal Review) Budget Act of 2003.

04/28/2003 - ASM BUDGET From committee with author's amendments. Read second time. Amended. Re-referred to committee.

This bill would express the intent of the Legislature to achieve specified savings in the Budget Act of 2003. The bill would require the Director of Finance to prepare a report analyzing those actions necessary to implement this intent and deliver that report to the chairpersons of the committees in each house of the Legislature that consider the budget. This bill contains other related provisions.

SBX1 7 (Committee on Budget and Fiscal Review) Local and state government.

04/28/2003 - ASM BUDGET From committee with author's amendments. Read second time. Amended. Re-referred to committee.

Existing law establishes in the Trial Court Trust Fund and provides that certain fees collected by a trial court or county clerk shall be deposited in a special account in the county treasury and transmitted monthly to the Controller for deposit in that trust fund. This bill would expand the list of fees and fines that are to be transmitted to the Controller for deposit into that trust fund. This bill contains other related provisions and other existing laws.

SBX1 17 (Committee on Budget and Fiscal Review) 2003-04.

02/03/2003 - ASM BUDGET To Com. on BUDGET.

This bill would amend the Budget Act of 2002 by revising various items of appropriations, as specified, and authorizing the Director of Finance to revert additional amounts from specified funds to the General Fund.

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